ADDENDUM TO THE SAN JOSE DOWNTOWN STRATEGY 2000 FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2003042127) AND THE ENVISION SAN JOSE 2040 GENERAL PLAN FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2009072096)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to the San Jose Downtown Strategy 2000 Final Environmental Impact Report (Strategy 2000 FEIR) and the Envision San Jose 2040 General Plan Final Environmental Impact Report (2040 General Plan FEIR) because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

H15-007 – The Modera. Site Development Permit demolish an 11,969 square foot commercial/retail building and construct an eight-story building with up to 201 residential units, approximately 12,000 square feet of ground level commercial space, a four level parking garage (including two levels below grade) on a 0.98 acre project site and potential pedestrian improvements for a paseo on approximately 0.23 acres on adjacent properties to the south. **Location:** 45 N. San Pedro Street and 20 N. Almaden Avenue (APNs 259-35-042 and -058), with potential paseo improvements on adjacent properties to the south (APNs 259-35-057, -035, and -048).

Council District: 3.

The environmental impacts of this project were addressed by two Final Environmental Impact Reports: "The Downtown Strategy 2000 Final Environmental Impact Report," adopted by City Council Resolution No. 72767 on June 21, 2005; and “Envision San Jose 2040 General Plan Final Impact Report,” adopted by City Council Resolution No. 76041 on November 1, 2011. The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that “A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred.” Circumstances which would warrant a subsequent EIR include substantial changes in the project or new information of substantial importance which would require major revisions of the previous EIR due to the occurrence of new significant impacts and/or a substantial increase in the severity of previously identified significant effects.

The following impacts were reviewed and found to be adequately considered by the Strategy 2000 FEIR and 2040 General Plan FEIR:

☒ Traffic and Circulation	☒ Soils and Geology	☒ Noise
☒ Cultural Resources	☒ Hazardous Materials	☒ Land Use
☒ Urban Services	☒ Biotic Resources	☒ Air Quality
☒ Aesthetics	☒ Airport Considerations	☒ Microclimate
☒ Energy	☐ Greenhouse Gas Emissions	☒ Construction Period Impacts
☒ Water Quality	☒ Utilities	☒ Facilities and Services

ANALYSIS

The amount of residential and commercial development proposed for the site was included and analyzed in the Strategy 2000 FEIR and the certified 2040 General Plan FEIR, at a program level.

The Strategy 2000 FEIR was a broad range, program-level environmental document, which analyzed the following level of development in the Greater Downtown Core Area during the planning horizon of Strategy 2000:

- 8,000,000 to 10,000,000 square feet of office space;
- 8,000 to 10,000 residential dwelling units;
- 900,000 to 1,200,000 square feet of retail space; and
- 2,000 to 2,500 guest rooms of hotel space, in four to five hotel projects.

The project, as proposed, would construct a mixed-use mid-rise building with 201 residential units and about 12,000 square feet of ground floor commercial/retail space. The type and intensity of development proposed is consistent with the intent of the Downtown Strategy 2000 and the findings of the Strategy 2000 FEIR.

The General Plan FEIR included the project site in the evaluation for the *Downtown* land use designation. This designation allows for office, retail, service, residential, and entertainment uses in the Downtown at very high intensities. The project conforms to the Downtown General Plan land use designation in that it proposes high-density residential and commercial uses, consistent with the Envision San Jose 2040 General Plan and the 2040 General Plan FEIR.

The attached Initial Study evaluates the project-specific environmental impacts that were not addressed in the two previously certified FEIRs, including Greenhouse Gas Emission (GHG) impacts. A project-level GHG evaluation found that GHG emissions from the project, at 2.56 metric tons of CO_2e per person per year, will be below the Bay Area Air Quality Management District's service population threshold of 4.6 metric tons of CO_2e per person per year.

The Initial Study concluded that the proposed project would not result in any new impacts not previously disclosed in the Strategy 2000 FEIR and the 2040 General Plan FEIR. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent EIR is not required and an addendum to the Strategy 2000 FEIR and the 2040 General Plan FEIR has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to both the Strategy 2000 FEIR and the 2040 General Plan EIR, pursuant to CEQA Guidelines §15164(c). The attached Initial Study (Attachment 1) provides background on the project description, specific project impacts, and the relationship between previous mitigation measures and the revised project.

David Keyon
Environmental Project Manager

5/8/2015
Date

Harry Freitas, Director
Planning, Building and Code Enforcement

John Davidson
Deputy

Attachment: 1) Draft Initial Study, dated May 2015.

Initial Study/Addendum to the Envision San José 2040 General Plan (SCH#2009072096) and Downtown Strategy 2000 (SCH#2003042127)

45 North San Pedro Street Mixed Use Project

File No.: H15-007

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

May 2015

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FIGURES

TABLES

APPENDICES

SECTION 1.0 INTRODUCTION AND PURPOSE

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusion in the environmental document.

In 2005, the City of San José approved the San José Downtown Strategy 2000 (Downtown Strategy), which is an update of the San José Downtown Strategy Plan 2010 (adopted in 1992) and is a long-range program for the redevelopment and preservation of the central core of San José. The plan includes the following development:

- 8,000,000 to 10,000,000 square feet (sf) of office;
- 900,000 to 1,200,000 SF of retail space;
- 8,000 to 10,000 residential units; and
- 2,000 to 2,500 hotel guest rooms.

While the certified Downtown Strategy Final Environmental Impact Report (FEIR) (SCH# 2003042127) was primarily a broad range, program-level environmental document, it developed project-level level information whenever possible, such as when a specific site was identified for a specific type of development. All subsequent development that has occurred as part of the Downtown Strategy 2000 has had project-specific supplemental environmental review.

In November 2011, the City of San José approved the Envision San José 2040 General Plan (2040 General Plan), which is a long-range program for the future growth of the City. The certified 2040 General Plan FEIR (SCH# 2009072096) was a broad range analysis of planned growth and did not analyze specific development projects. The intent was for the document to be a program-level document from which subsequent development, consistent with the General Plan, could tier. The 2040 General Plan FEIR evaluated additional growth (up to 10,360 dwelling units) in the Downtown Core.

The project site has a General Plan land use designation of *Downtown* which allows for office, retail, service, residential, and entertainment uses at high intensities, unless incompatible with other major policies within the 2040 General Plan (such as Historic Preservation Policies). Residential development within the *Downtown* land use designation is intended to support pedestrian/bicycle circulation, increase transit ridership, and incorporate ground floor commercial uses.

The purpose of this Initial Study/Addendum is to evaluate the environmental impacts from development of the project site with an eight-story 201-unit residential apartment building with 11,969 sf of ground-floor retail/commercial space on a 0.98-acre site, consistent with the Downtown Strategy 2000 and San Jose 2040 General Plan.

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

    a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in §15162 (see above) calling for preparation of a subsequent EIR have occurred.

Given the proposed project description and knowledge of the project site (based on the proposed project, site specific environmental review, and environmental review prepared for the Downtown Strategy FEIR and 2040 General Plan FEIR), the City has concluded that the proposed project would not result in any new impacts not previously disclosed in the Downtown Strategy FEIR or the 2040 General Plan FEIR; nor would it result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent FEIR is not required and an addendum to the Downtown Strategy FEIR and 2040 General Plan FEIR has been prepared for the proposed project.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

45 N. San Pedro Street Mixed-Use Project (The Modera)

2.2 PROJECT LOCATION

N. San Pedro Street and N. Almaden Street are northwest- to southeast-trending roadways in the project area. For the purposes of discussion in this document, these roadways are considered east and west of the project site, respectively, when describing features on and within the vicinity of the project site.

The project site is located at 45 N. San Pedro Street and 20 N. Almaden Avenue, and is bordered by N. San Pedro Street to the east and N. Almaden Avenue to the west. Commercial uses are located to the north and south, with a parking structure located to the east and an office building and a future residential building located to the west. Regional and vicinity maps of the project site are shown on Figures 2.2-1 and 2.2-2, respectively. Figure 2.2-3 shows an aerial photograph of the project site and surrounding land uses.

2.3 LEAD AGENCY CONTACT

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2.4 PROPERTY OWNER/PROJECT APPLICANT

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2.5 ASSESSOR'S PARCEL NUMBERS

259-35-042 and 259-35-058

2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

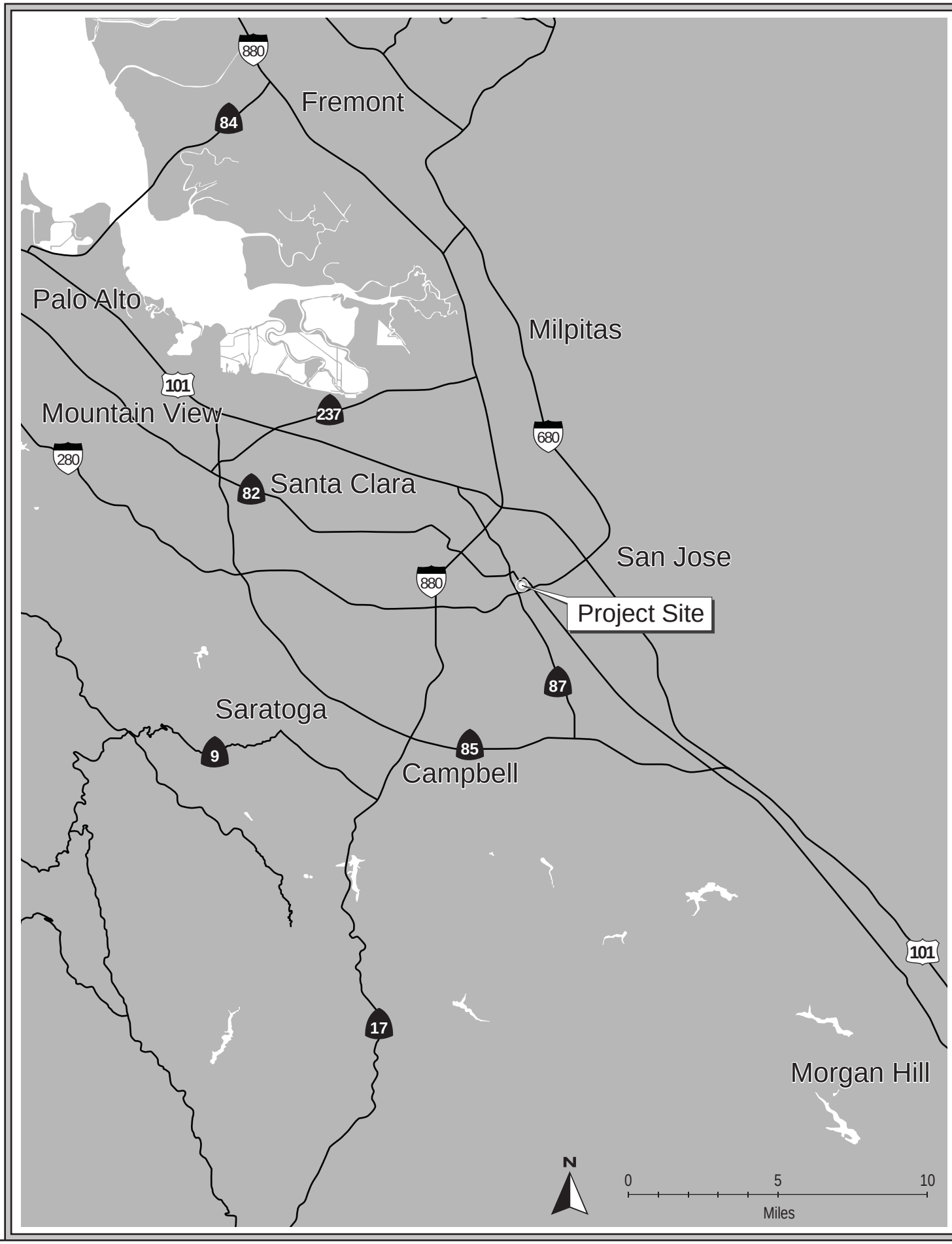
Zoning District: *Downtown Primary Commercial*
General Plan Land Use Designation: *Downtown*

2.7 HABITAT PLAN DESIGNATIONS

Land Cover Designation: *Urban – Suburban (one (1) acre)*
Development Zone: *Urban Development greater than two acres covered*
Fee Zone: *Urban Areas*
Owl Conservation Zone: *N/A*

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS AND PERMITS

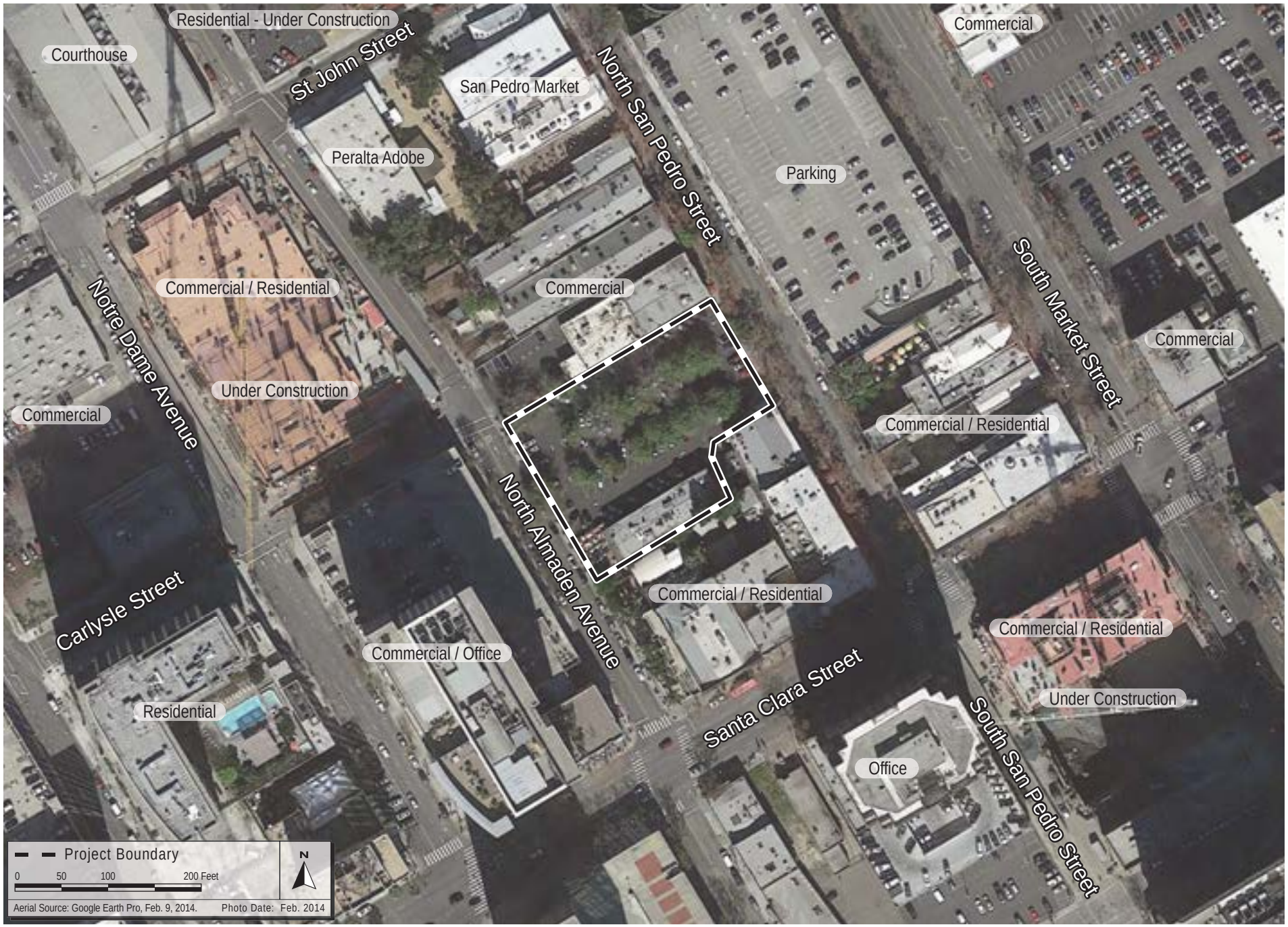
- Site Development Permit
- Tentative Map
- Grading Permit
- Building Permit
- Tree Removal Permit
- Street Improvement Permit



REGIONAL MAP FIGURE 2.2-1

VICINITY MAP

FIGURE 2.2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 2.2-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 BACKGROUND INFORMATION

The approximately 0.98-acre project site (APNs 259-35-042 and -058) and 0.23-acre area adjacent to the south which may be enhanced with potential pedestrian improvements (paseo) (APNs 259-35-057, -035, and -048) is located in a developed, urban area in Downtown San José and is identified in the Downtown Strategy and 2040 General Plan for intensified development. The southern portion of the project site is currently developed with a commercial building containing two restaurants, a tea shop, and a law office. The northern portion of the site is developed with a surface parking lot and associated infrastructure including light poles, fencing, and landscape trees (see Figure 3.2-1, Existing Project Site*)*.

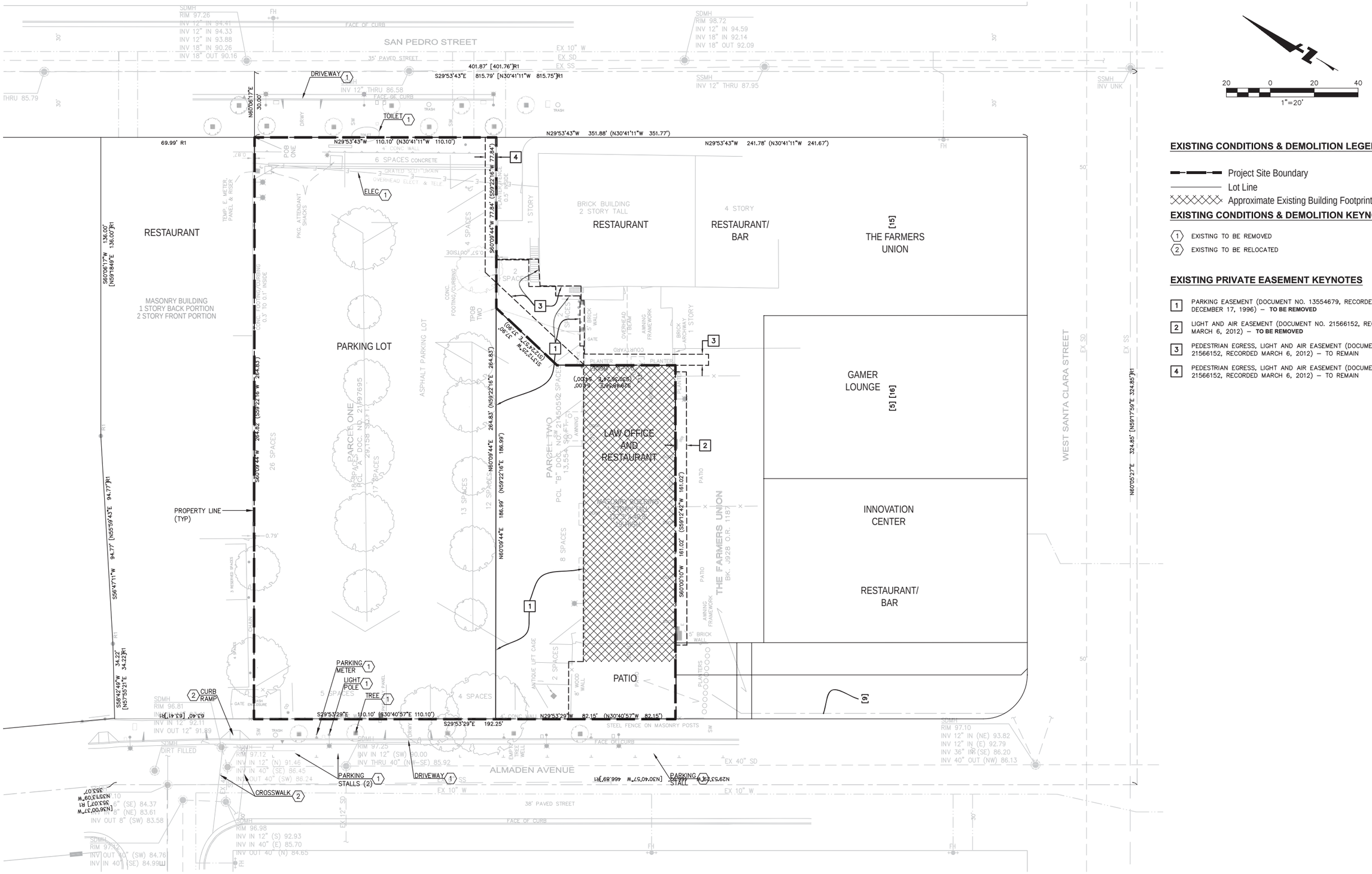
The Downtown Strategy designates the project site as a 'Specific Development Site' and proposes development of the on-site parking lot with a gathering plaza fronting N. San Pedro Street, and a new housing development over ground-floor retail behind the plaza, adjacent to N. Almaden Avenue. A marketplace and plaza (San Pedro Square Market) was constructed at the intersection of E. St. John Street and N. San Pedro Street in 2010, approximately 300 feet north of the project site.

Because a plaza has already been constructed at an alternate location on N. San Pedro Street, the project does not propose the plaza that was originally envisioned for the site in the Downtown Strategy. Instead, the project proposes installation of a paseo adjacent to the south side of the proposed building linking the N. San Pedro Street and N. Almaden Avenue sidewalks. The paseo would connect to outdoor amenities including courtyards and patio areas which would be enhanced as part of the project. The paseo amenities could be located on the adjacent properties to the south (APN 259-35-057) and would only occur after reciprocal agreements are established with the adjacent property owners. A conceptual site plan of the proposed project is shown on Figure 3.2-2. The site plan shows the property line, as well as the paseo boundary and amenity areas that would require establishment of reciprocal agreements for implementation.

The project site has a General Plan land use designation of *Downtown* and zoning designation of *Downtown Primary Commercial.* The *Downtown* land use designation includes office, retail, service, residential, and entertainment uses at high intensities. The *Downtown Primary Commercial* zoning designation allows for a variety of uses including residential, office, general retail, education and training (e.g., daycare), entertainment, food services, health and veterinary services, and transportation (e.g., parking).

3.2 PROJECT OVERVIEW

The project would demolish an existing restaurant/office building and develop the site with 201 residential dwelling units and 11,969 square feet (sf) of commercial/retail uses in an eight-story, approximately 85-foot tall building (with a design feather parapet that varies in height up to 98 feet tall), consistent with the intent of the existing General Plan and Zoning designations. Cross sections and elevations of the proposed building are shown in Figures 3.2-3, 3.2-4, and 3.2-5.



EXISTING CONDITIONS & DEMOLITION LEGEND

- Project Site Boundary
- Lot Line
- Approximate Existing Building Footprint

EXISTING CONDITIONS & DEMOLITION KEYNOTES

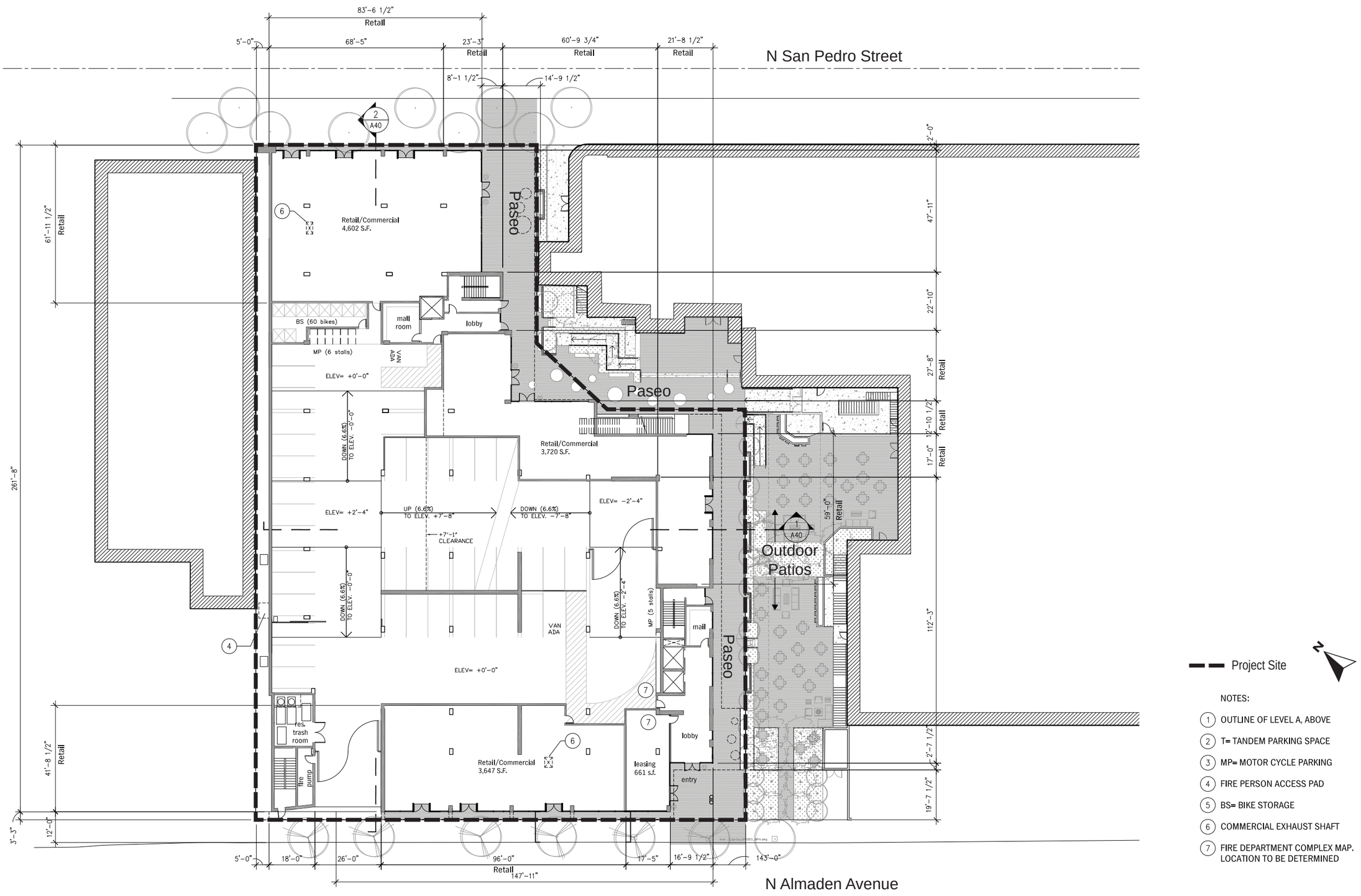
1. EXISTING TO BE REMOVED
2. EXISTING TO BE RELOCATED

EXISTING PRIVATE EASEMENT KEYNOTES

1. PARKING EASEMENT (DOCUMENT NO. 13554679, RECORDED DECEMBER 17, 1996) – **TO BE REMOVED**
2. LIGHT AND AIR EASEMENT (DOCUMENT NO. 21566152, RECORDED MARCH 6, 2012) – **TO BE REMOVED**
3. PEDESTRIAN EGRESS, LIGHT AND AIR EASEMENT (DOCUMENT NO. 21566152, RECORDED MARCH 6, 2012) – TO REMAIN
4. PEDESTRIAN EGRESS, LIGHT AND AIR EASEMENT (DOCUMENT NO. 21566152, RECORDED MARCH 6, 2012) – TO REMAIN

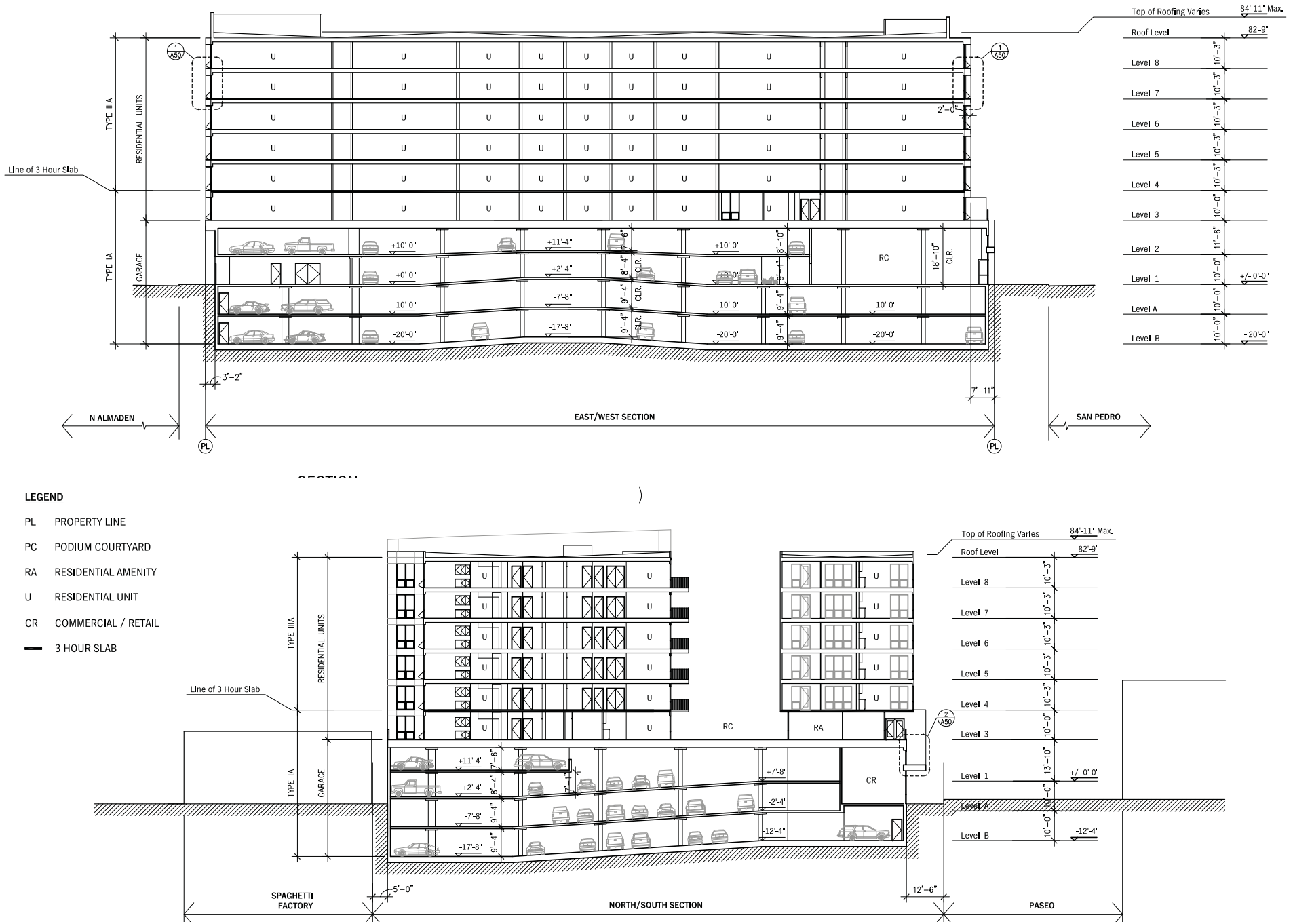
EXISTING CONDITIONS

FIGURE 3.2-1



SITE PLAN (STREET LEVEL)

FIGURE 3.2-2



LEGEND

PL	PROPERTY LINE
PC	PODIUM COURTYARD
RA	RESIDENTIAL AMENITY
U	RESIDENTIAL UNIT
CR	COMMERCIAL / RETAIL
—	3 HOUR SLAB

BUILDING CROSS SECTIONS

FIGURE 3.2-3

East Elevation

South Elevation

BUILDING ELEVATIONS FIGURE 3.2-4

East Elevation

West Elevation

BUILDING ELEVATIONS WITH STREET CONTEXT FIGURE 3.2-5

Parking would be provided in a four-story garage with two parking levels below grade, one level at grade, and one level above grade on the second floor of the proposed building. The proposed mixed-use building would include residential amenity space, a leasing office, and retail/commercial uses on the first and second floors. Residential units would be located on the upper six floors. Additional residential amenity space, private patios, and an outdoor community terrace serving residents of the building would be located on the third floor. The project includes construction of a paseo[1] along the south side of the proposed building, connecting N. San Pedro Street to N. Almaden Avenue, a portion of which may be constructed on adjacent properties to the south of the project site pending establishment of reciprocal agreements. The project also includes common outdoor areas for residents, landscaping, driveways, utility improvements, green building measures, and construction activities as described below.

3.3 PROJECT COMPONENTS

3.3.1 Demolition Activities

The southern portion of the project site is currently developed with a commercial building (20 N. Almaden Avenue) containing two restaurants, a tea shop, and a law office. The northern portion of the site is developed with a surface parking lot and associated infrastructure including light poles, fencing, and landscape trees (see Figure 3.2-1 Existing Project Site). The project would remove the existing building, pavement, trees and other improvements on the site to allow redevelopment of the site with the proposed multi-use residential development.

3.3.2 Residential Units

The project would construct up to 201 residential dwelling units. The residential units are proposed on floors three through eight and would include approximately 94 studio units, 54 one-bedroom units, and 53 two-bedroom units. The residential units would be rented through operation of a 661 sf leasing office located on the first floor of the proposed building, adjacent to N. Almaden Avenue.

3.3.3 Commercial/Retail Uses

The project includes 11,969 sf of commercial/retail space on the ground floor of the building fronting N. San Pedro Street, N. Almaden Avenue, and the proposed paseo. The proposed commercial/retail uses on the site would be consistent with the *DC-Downtown Primary Commercial* zoning district and could include office, general retail, education and training (e.g. daycare), entertainment, food services, and/or health and veterinary services.

3.3.4 Public Right-of-Way Improvements

The project will include street dedication of 3.5 feet to construct a widened 12-foot attached sidewalk with tree wells at the back curb along N. Almaden Avenue.

[1] A public place or path designed for walking; promenade.

3.3.5 Outdoor Areas and Landscaping

Public Outdoor Spaces and Landscaping

The project includes outdoor areas and landscaping along the proposed paseo, and common spaces for use by future residents of the building.

The nine existing street trees along the N. San Pedro Street project frontage would remain in place with implementation of the project. The six existing street trees along the N. Almaden Avenue project frontage would be removed to make space for construction equipment, and replaced in-kind with project completion.

The project includes construction of a paseo adjacent to the south side of the proposed residential building, connecting N. San Pedro Street to N. Almaden Avenue. The paseo would be located on the subject property and could be located on adjacent properties to the south (APNs 259-35-057, -035, and -048). Installation of the paseo on adjacent properties is dependent on establishment of a reciprocal agreement with adjacent land owners to the south. If reciprocal agreements cannot be established, then the project would be redesigned so the paseo would be on the project site only, allowing through-connectivity between N. San Pedro Street and N. Almaden Avenue.

The paseo would be approximately 12.5 feet wide and would include features such as decorative lighting, sculptures, and planters. The paseo would provide pedestrian access onto adjacent properties to the south through gates leading to outdoor courtyards and patio areas. The project would add amenities and enhancements to the existing patio areas adjacent to the southern boundary of the project site. The project would not change the existing use of these sites. If uses on any of the adjacent sites to the south change in the future (i.e. change in operational hours, installation of outdoor stages, etc.), then separate planning permits and additional environmental review may be required.

A small part of the existing sidewalks along N. San Pedro Street and N. Almaden Avenue would be re-surfaced with materials that match the paseo surfacing to incorporate the paseo into the existing pedestrian landscape.

Common Outdoor Space for Project Residents

The project includes an outdoor community terrace on the third level of the proposed building, for use by residents only. The terrace could include lounge furniture, a barbeque, and other amenities. Landscaping would include trees in planter boxes and various shrubs, groundcover, and succulents. The third floor of the proposed building would also include private outdoor patio areas connected to nine residential units along the western side of the building.

3.3.6 Site Access and Parking

Pedestrian access to the project site would be provided via existing sidewalks along the project site frontage on N. San Pedro Street and N. Almaden Avenue. The main lobby entrance providing access to the residential units would be located on the south side of the proposed building near N. Almaden

Avenue and a secondary lobby would be located on the south side of the proposed building near N. San Pedro Street. Both lobby areas could be accessed from the parking garage or from the paseo.

The proposed four-level parking garage would include 273 vehicle spaces, 54 motorcycle spaces, and 54 bicycle stalls. The parking garage would be used by residents of the building only, and each residential unit would have assigned spaces inside the garage at a rate of one parking space per bedroom (i.e. a two-bedroom apartment would be assigned two parking spaces). Parking spaces inside the garage would be consistent with City of San Jose requirements (8.5 feet wide by 17 feet long) and the garage would include tandem parking, to be approved by the City's Planning Director. The site is located in the Downtown area of San Jose and the project is not required to provide parking for retail uses. Motorists visiting the site for the commercial/retail components could find street parking or park in the public parking garage located just east of the site, across N. San Pedro Street.

Garbage bins would be wheeled out to the curb on N. Almaden Avenue each week so that garbage trucks could access garbage. Traffic operations on N. Almaden Avenue would be interrupted temporarily while trucks maneuver into the area. The design of the project would be required to comply with the City's standards for emergency vehicle access (including providing adequate points of access, vertical clearance, and turning radius).

3.3.7 Utility Improvements

The project requires connections to existing utilities in the area to serve residential and commercial/retail uses. The project includes new on-site water, sewer, and storm drain pipes which would connect to existing utilities in the project area. The project also includes on-site features to treat stormwater runoff prior to discharge into the City's stormwater system in conformance with C.3 provisions of the City's National Pollution Discharge Elimination System (NPDES) Permit, as described in more detail in *Section 4.9 Hydrology*.

3.3.8 Green Building Measures

The project will be subject to the City's Green Building Ordinance and will follow energy conservation measures/design features to reduce GHG emissions, as follows:

- Exceed the State Title 24 California Energy Code requirements by at least 15 percent;
- Provide bicycle lockers;
- Install high performance lighting and controls;
- Maximize natural lighting, minimize summer heat gain, and increase passive heating in winter;
- Salvage and recycle construction waste;
- Use recycled content building materials;
- Use low-VOC emitting paints, sealants, coatings, and flooring systems;
- Water efficient landscaping and irrigation design.

Consistent with the City's Private Sector Green Building Policy, the proposed project would be designed to achieve, at minimum, LEED Certification by incorporating a variety of design features to

reduce energy and water use. The features could include community design and planning, site design, landscape design, building envelope performance, and material selections.

3.3.9 Construction Activities

Demolition of the existing on-site improvements, as discussed above in *Section 3.3.1, Demolition Activities,* would occur over approximately one month. The project would be constructed over an approximately 26-month period, beginning in fall 2015. Construction of the project would require the excavation and export of approximately 24,000 cubic yards of soil (primarily for the construction of the below-ground parking). The maximum depth for excavation is estimated to be 20 feet below grade. Construction equipment staging in the right-of-way would be vetted out with the City of San Jose with a revocable encroachment permit.

SECTION 4.0 SETTING, ENVIRONMENTAL CHECKLIST AND IMPACTS

This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines §15370).

4.1 AESTHETICS

4.1.1 Setting

The 0.98-acre project site is L-shaped and located mid-block between W. Santa Clara Street and W. St. John Street in Downtown San José. The project site is bordered to the east and west by N. San Pedro Street and N. Almaden Avenue, respectively.

4.1.1.1 *Project Site*

The southern portion of the project site is developed with a retail/commercial building that was constructed in 1945. The building, located at 20 N. Almaden Avenue, is a single-story reinforced concrete building with a wooden roof supported by light steel trusses, originally constructed as a warehouse. In the late 1960s, the building was subdivided into three restaurant spaces and office space (see Photo 1).

The northern portion of the project site is developed with a paved parking lot, light poles, and landscape trees (see Photo 2).

4.1.1.2 *Surrounding Visual Character*

The project area contains a variety of structures ranging from modern high rises with concrete and glass facades to older, single-story to three-story buildings constructed with brick. N. San Pedro Street and N. Almaden Avenue, which form the eastern and western project site boundaries, respectively, are two-lane roadways (one lane in each direction), and have sidewalks on both sides of the streets with street trees.

Development east of the site across N. San Pedro Street consists of a five-story parking structure with a decorative brick and metal façade (See Photo 3). West of the site, across N. Almaden Avenue, is an enclosed two-story parking garage with a tile façade and large decorative windows. The parking garage serves the high-rise office building above. The office building is setback from the street and has a glass and concrete façade (see Photo 4). Adjacent to the north and south of the site are older (circa 1800s) one- to three-story commercial buildings with decorative brick, stucco, and wood

facades (see Photo 5). Two- and three-story structures in the project area generally have ground-floor retail with second- and third-floor residential. The building adjacent to the south of the project site, fronting N. San Pedro Street has a second-floor theater. A small courtyard area is located behind the commercial/theater building, adjacent to the site (see Photo 6). Northwest of the site across N. Almaden Avenue, a large residential high rise with ground-floor retail/commercial is currently under construction.

4.1.1.3 *Scenic Views and Resources*

The City has many scenic resources including the hills and mountains that frame the Valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is flat and located in Downtown San José, surrounded by development. Views of the Diablo foothills east of Downtown and the Santa Cruz Mountains west of Downtown are obscured by existing development. The project site is not adjacent to or visible from a City designated rural scenic corridor.

No natural scenic resources, such as trees or rock outcroppings, are present on the site or in the project area. There are no historic buildings located on-site; however, there are designated historic and potentially historic buildings located in the area. Historic and potentially historic buildings are discussed in *Section 4.5 Cultural Resources.*

4.1.1.4 *Applicable Plans, Policies, and Regulations*

State Scenic Highway Program

The State Scenic Highways Program was created by the California State Legislature in 1963 and is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no designated state scenic highways located in the vicinity of the project site.

PHOTO 1: View of the on-site building located at 20 N. Almaden Avenue, looking east toward the project site from the west side of N. Almaden Avenue.

PHOTO 2: View of the on-site paved parking lot, looking west toward the project site from the east side of N. San Pedro Street.

PHOTO 3: View of a parking garage, looking east across N. San Pedro Street from the eastern boundary of the project site.

PHOTO 4: View of a high-rise office building, looking west toward N. Almaden Avenue from the southern portion of the project site.

PHOTO 5: View of a commercial building located adjacent to the northern boundary of the project site, looking northwest from the east side of N. San Pedro Street.

PHOTO 6: View of the back side of a commercial/theater building and an associated courtyard area, looking southwest from the southern portion of the project site.

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to aesthetic resources and are applicable to the proposed project.

Envision San José 2040 Relevant Aesthetic Policies

Policies	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.26	Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.
Policy CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.

Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
Policy CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
Policy CD-6.8	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.

Downtown Strategy 2000

The following Downtown Strategies are specific to aesthetics and are applicable to the proposed project.

Downtown Strategy 2000 Urban Design Policies

Policies	Description
Transportation and Access 1	Incorporate a pedestrian orientation in new development, including appropriate site planning, human-scale street frontages, ground floor uses, and integration with adjacent transit stops, to ensure walkability and integration with the existing downtown. Incorporate bicycle amenities into transportation and streetscape planning.
Transportation and Access 4	Make streetscape improvements such as landscaping, adding shade trees, lighting, public art, street furniture, markers, banners and water features to enhance and increase pedestrian and transit use, consistent with the Streetscape Master Plan (or its successor plan).
Historic Assets 1	Encourage the preservation, restoration or rehabilitation of identified historic resources. Conduct surveys of those areas of the city not yet surveyed, in order to identify potential historical and architectural resources, and assess impacts of development on those resources.
Historic Assets 2	It is the policy of the City of San José to strongly encourage preservation and adaptive reuse of designated landmark structures. Proposals to alter such structures much includes thorough and comprehensive evaluation of the historic and architectural significance of the structure and the economic and structural feasibility of preservation and/or adaptive reuse. Every effort should be made to incorporating existing landmark structures into the future plans for their site and the surrounding area.
Lighting	Existing light levels should be maintained, and adequate lighting should be provided to ensure visitor safety.

Downtown Design Guidelines

The Downtown Design Guidelines refine the strategies and policies set forth in the Downtown Strategy and help provide direction for the design of future development. The Downtown Design Guidelines describe topics such as lighting, materials for construction, exterior design, massing and scale, orientation, and identity. The Guidelines were adopted to enhance the character of the

Downtown and encourage creativity while ensuring a reasonable degree of cohesion. Select guidelines are identified below.

Downtown Design Guidelines

Guidelines	Description
Skyline Design and Height	The tops of tall buildings should be designed to provide visual interest to the form of the downtown skyline. Relative to the rest of development on a block, taller buildings should be built at the short ends and corners to emphasize intersections, to maintain sun exposure at mid-block, and to frame views of the surrounding mountain ranges. The gradual subtraction of mass towards the top floors reduces the appearance of the overall bulk and generally produces a more interesting building form.
Massing and Scale	Buildings should be compatible with the scale of development anticipated by the Downtown Strategy Plan and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones.
Materials	Use the materials consistent and exceed the design and quality existing in the Downtown on facades and exterior walls of buildings to give a perception of permanence and civic pride. Use the most durable (i.e. low maintenance) materials at the public level.
Lighting	Lighting should be coordinated with the Federal Aviation Administration (FAA) and the Lick Observatory. Illuminating building features should create a sense of safe and intimate space around the precinct of the building. Provide appropriate levels of building mounted lighting on façade, in private landscaped areas, in merchandising display windows, and on signage.

Residential Design Guidelines

The Residential Design Guidelines establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The *Residential Design Guidelines* address a variety of areas, including street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design.

Downtown Streetscape Master Plan

The Downtown Streetscape Master Plan aims to enrich the pedestrian experience in the Greater Downtown area and support existing and planned future developments. The Streetscape Master Plan defines an overall physical and visual image of the Greater Downtown area that can be achieved through a combination of high-quality materials, amenities, furnishings, and infrastructure. Implementation of the Plan ultimately helps improve pedestrian safety, walkability, and continuity.

4.1.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐	1,2,3,4 5
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐	1,2,3,4 5
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐	1,2,3,4 5
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐	1,2,3,4 5

4.1.3 Aesthetics Impacts

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character will differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the analysis in the 2040 General Plan FEIR and Downtown Strategy FEIR.

4.1.3.1 *Impacts to Scenic Vistas and Resources*

The site is not located along or visible from a designated state scenic highway or City scenic rural corridor. Views of the foothills and mountains from the project area are obscured by existing development and there are no scenic resources (such as trees, rock outcroppings, or historic buildings) on-site. There are historic buildings in the site vicinity. As discussed in *Section 4.5 Cultural Resources,* the development of the proposed project would not substantially impact the historic significance of nearby historic buildings.

The urban skyline, including the high-rise development in Downtown, is a scenic resource. The project is located in the San Pedro Square area of Downtown, where building heights range from one story to 20 stories. The project is considered a mid-rise building with eight-stories and would be compatible with the height and massing of surrounding development. The project would develop an

underutilized site and would, therefore, contribute to the visual presence of the Downtown area when compared to existing conditions.

Redevelopment of the site with the proposed project would not have any new or more significant impacts to a scenic vista or scenic resources than evaluated in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3.2 *Change in Visual Character*

Currently, a high-rise office building is located west of the project site across N. Almaden Avenue, a high-rise residential building is being constructed immediately northwest of the site across the N. Almaden Avenue/Carlysle Street intersection, and a five-story parking garage is located just east of the site across N. San Pedro Street. Smaller one- to three-story buildings containing ground-floor commercial/retail (and often second- and third--story residential) are located in the project vicinity, including adjacent to the northern and southern boundaries of the project site.

The project proposes construction of an eight-story mid-rise building which is smaller in mass and scale than the high-rise buildings, similar in mass and scale to the parking garage, and larger in mass and scale than the older commercial/retail buildings. The proposed building would be stepped-back adjacent to the proposed paseo and courtyards to create an inviting walkway, and to prevent the building from hovering over the adjacent buildings to the south which are considered historic, and includes the Farmer's Union Building which is listed on the National Register of Historic Places (NRHP) and is a designated City Landmark, (see *Section 4.5 Cultural Resources)*.

The proposed building would have a façade mainly constructed of metal, glass, concrete, and cement plaster. The metal and glass would give the building a modern feel, consistent with the taller buildings in the area, while the concrete and cement plaster would integrate the building with the style of the older low-rise development in the area. The proposed parking garage on the first and second floors would be screened on street-facing exposures in accordance with 2040 General Plan policies CD-1.9 and CD-6.8. The project would include ground-floor retail with residential above, consistent with the layout of other buildings along N. San Pedro Street.

As described above, the proposed building would be mid-rise and designed with both modern and classic elements to fit with existing development in the project area, which has a range of building heights and styles. The 2040 General Plan FEIR and Downtown Strategy FEIR concluded that although new development and redevelopment under the 2040 General Plan and Downtown Strategy would alter the appearance of the City, implementation of adopted policies and applicable design guidelines would avoid substantial degradation of the visual character or quality of the City. The project would result in a visual change compared to existing conditions; however, the proposed project is consistent with the scale and type of development envisioned for the Downtown in the 2040 General Plan and Downtown Strategy. It is also consistent with the intent of the Downtown and Residential Design Guidelines and the Downtown Streetscape Master Plan.

The proposed project would not have new or more significant adverse impacts on the visual character of the project area than evaluated in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3.3 *Light and Glare Impacts*

The Downtown Strategy FEIR concluded that new development, with the implementation of the urban design concepts and guidelines identified in the Downtown Strategy, would not result in substantial light and glare impacts. Consistent with the lighting policies of the Downtown Strategy FEIR, the project proposes to maintain adequate lighting at the street level to ensure pedestrian safety in the project vicinity. The final lighting plans will be reviewed subsequent to approval of the site development permit for consistency with the Downtown Strategy urban design concepts and guidelines identified to avoid significant light and glare impacts. It has not yet been determined what type of glass will be used, however, the final lighting plan will be approved through a permit amendment or adjustment subject to administrative approval by the Planning Department. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. The proposed project would not result in any new or more significant light and glare impacts than identified in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.4 Conclusion

The proposed project would not result in a new or more significant aesthetics impact than identified in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The California Department of Conservation manages the Farmland Mapping and Monitoring Program to assess and record how suitable a particular tract of land is for agricultural purposes. In each county, the land is analyzed for soil and irrigation quality and the highest quality land is designated as *Prime Farmland*.

The project site is developed with a retail/commercial building, surface parking lot, and landscape trees. The site is located in Downtown San José and surrounded by urban development including roadways, office, commercial, and residential uses. The project site is not designated as *Prime Farmland* or other farmland, and is not the subject of a Williamson Act contract.[2] The site is designated as *Urban and Built-Up Land*, which is defined as land occupied with a building density of at one unit to 1.5 acres or approximately six structures per 10-acre parcel. Common examples of *Urban and Built-Up Land* are residential, industrial, commercial purposes, golf courses, landfills, airports, and other utility uses.[3] The project site does not meet the definition of forest land or timberland.[4]

4.2.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐	6

[2] Agricultural lands in California can be protected from development and reserved for agricultural purposes or open-space conservation under the California Land Conservation Act, commonly known as the Williamson Act.

[3] California Department of Conservation. *Santa Clara County Important Farmland Map 2012*. 2014. Available at: ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/scl12.pdf. Accessed February 4, 2015.

[4] According to California Public Resources Code Section 12220(g), Forest Land is land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits. According to California Public Resources Code Section 4526, "Timberland" means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	7
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	☐	7,8
4. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1,7
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1,6,7,8

4.2.3 Agricultural and Forestry Resources Impacts

As discussed above, the project site is designated, developed, and zoned for urban uses. The site is not designated, used, or zoned for agricultural, forest, or timberland purposes. The project site is not part of a Williamson Act contract. The project site is surrounded by urban development and, therefore, its development would not result in the conversion of agricultural land to non-agricultural uses or forest land to non-forest uses. For these reasons, the proposed project would not impact agricultural and forestry resources. **[Same Impact as Approved Project (No Impact)]**

4.2.4 Conclusion

The proposed project would not result in any new or more significant impacts to agricultural or forest resources than identified in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3 AIR QUALITY

The following discussion is based in part on a Community Risk Assessment prepared by *Illingworth & Rodkin, Inc.* in February, 2015. A copy of this report is attached as Appendix A.

4.3.1 Setting

4.3.1.1 *Climate and Topography*

The City of San José is located in the San Francisco Bay Area Air Basin, in a portion of the Santa Clara Valley bounded by the San Francisco Bay to the north, Santa Cruz Mountains to the southwest, and the Diablo Range to the east. The surrounding terrain greatly influences winds in the valley. Prevailing winds follow the valley's northwest-southwest axis.

4.3.1.2 *Regional and Local Criteria Pollutants*

Major criteria pollutants, listed in "criteria" documents by the U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter (PM). These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms.

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level ozone and $PM_{2.5}$ or State standards for PM_{10}. The area is considered in attainment or unclassified for all other pollutants.

4.3.1.3 *Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter*

In addition to criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). TACs tend to be localized and are found in relatively low concentrations; however, exposure to low concentrations of TACs over long periods can result in adverse chronic health effects. Diesel exhaust is a predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average).

Fine Particulate Matter ($PM_{2.5}$) is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to $PM_{2.5}$ can cause a wide range of health effects. Common stationary sources of TACs and $PM_{2.5}$ include gasoline stations, dry cleaners, and diesel backup generators. The other more significant, common source is motor vehicles on roadways and freeways.

4.3.1.4 *Sensitive Receptors*

The San Francisco Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the Federal and State ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD defines sensitive receptors as facilities where sensitive receptor

population groups (children, the elderly, the acutely ill, and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics.

The closest sensitive receptors to the project site are located in the residential apartments approximately 65 feet south of the project site, above the street-level businesses along W. Santa Clara Street, between N. Almaden Avenue and N. San Pedro Street. Additional sensitive receptors would be located within 500 feet of the project site in the future residential high rises (existing and under construction) to the north, west, and south.

4.3.1.5 *Applicable Plans, Policies and Regulations*

Federal, State, and Regional

Federal, State, and regional agencies regulate air quality in the Bay Area Air Basin, within which the proposed project is located. At the federal level, the USEPA is responsible for overseeing implementation of the Federal Clean Air Act and its subsequent amendments. CARB is the state agency that regulates mobile sources throughout the State and oversees implementation of the State air quality laws and regulations, including the California Clean Air Act.

BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with, or more stringent than, Federal and State air quality laws and regulations.

Regional Air Quality Management Districts such as BAAQMD must prepare air quality plans specifying how State air quality standards would be met. The BAAQMD's most recent adopted plan is the Bay Area 2010 Clean Air Plan (2010 CAP).

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to air quality and are applicable to the proposed project.

Envision San José 2040 Relevant Air Quality Policies

Policy	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-11.2	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Envision San José 2040 Relevant Air Quality Policies

Policy	Description
Policy MS-13.3	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian and bicycle improvements, and parking strategies that reduce automobile travel through parking supply and pricing management.

4.3.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐	9
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒	☐	9,10,11
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☐	☒	☐	9
4. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐	10,11
5. Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	☐	1

4.3.3 Air Quality Impacts

4.3.3.1 *Thresholds of Significance*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José, and other jurisdictions in the San Francisco Bay Area Air Basin, often utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD based upon the scientific and other factual data prepared by BAAQMD in developing those thresholds.

The determination of whether a project may have a significant effect on the environment is subject to the discretion of each lead agency, based upon substantial evidence. The City has carefully considered the thresholds prepared by BAAQMD in May 2011 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Evidence supporting these thresholds has been presented in the following documents:

- BAAQMD. *CEQA Air Quality Guidelines*. Updated May 2011.
- BAAQMD. *Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance.* October 2009.
- California Air Pollution Control Officers Association. *Health Risk Assessments for Proposed Land Use Projects*. July 2009.
- California Environmental Protection Agency, California Air Resources Board. *Air Quality and Land Use Handbook: A Community Health Perspective.* 2005.

The analysis in this Initial Study/Addendum is based upon the general methodologies in the most recent BAAQMD *CEQA Air Quality Guidelines* (dated May 2012) and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2011 *BAAQMD CEQA Air Quality Guidelines*, as shown in Table 4.3-1.

Table 4.3-1: Project-Level Significance Thresholds

Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions** (pounds/day)	**Maximum Annual Emissions** (tons/year)
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
Fugitive Dust (PM_{10}/$PM_{2.5}$)	Best Management Practices	None	None

Table 4.3-1: Project-Level Significance Thresholds

Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions** (pounds/day)	**Maximum Annual Emissions** (tons/year)
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.3 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	• Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.8 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	

Note: μ/m^3 = micrograms per cubic meter.

The BAAQMD *CEQA Air Quality Guidelines* (Air Quality Guidelines) recommend that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of toxic air contaminants (TACs).

4.3.3.2 *Clean Air Plan Consistency*

Determining consistency with the 2010 CAP involves assessing whether applicable control measures contained in the 2010 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures, and Energy and Climate Measures. Applicable control measures and the project's consistency with them are summarized in Table 4.3-2, below.

Growth evaluated as part of the 2040 General Plan would result in a significant unavoidable impact pertaining to consistency with the 2010 CAP. The project supports the primary goals of the 2010 CAP in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development that provides users of the site with access to existing transit and services which could reduce vehicle trips. As summarized in Table 4.3-2, the proposed project is generally consistent with the 2010 CAP control measures. The project would not hinder the implementation of the 2010 CAP control measures and would not conflict with or obstruct implementation of the 2010 CAP. The project by itself would not result in a significant impact related to consistency with the 2010 CAP, however, the project is a part of the development evaluated in the 2040 General Plan and

would incrementally contribute to the growth of San Jose. **[Same Impact as Approved Project (Significant and Unavoidable Impact)]**

Table 4.3-2: Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The project is infill development and includes 54 bicycle stalls to serve residents of the site and customers of the retail/commercial development.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project site is located in Downtown San José, near jobs and services and is served by existing pedestrian, bicycle, and transit facilities. The project would improve pedestrian connectivity in the area by installing a paseo connecting the N. San Pedro Street and N. Almaden Avenue sidewalks.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The project is consistent with the existing General Plan land use designation and proposes infill residential uses on underutilized land. The project is a mixed-use, high-density development located Downtown in proximity to transit. N. San Pedro Street is pedestrian-oriented, and the project would enhance pedestrian facilities by installing a paseo.
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The project would be constructed in conformance with the City's Private Sector Green Building Policy, which requires that the project achieve LEED Certification. The project proposes a high-density mid-rise building with ground floor retail/commercial in Downtown San Jose. The project's infill location near existing jobs, services, and transit provides opportunity for reduced vehicle miles and trips.

Table 4.3-2: Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project does not propose the use of cool roofing or paving. However, the project includes landscape trees on the sidewalk and outdoor common areas with green landscaping on floor three, which would reduce the "urban heat island" effect. The proposed development would replace a paved parking lot and would replace trees as required by the City's Tree Ordinance.
Tree-Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	As discussed above, the project proposes to plant trees and other landscaping on and adjacent to the project site.

4.3.3.3 *Short-Term Construction-Related Impacts*

Construction Criteria Air Pollutants

According to the BAAQMD Guidelines, construction of a mid-rise apartment building would not exceed the construction criteria air pollutant thresholds if it is less than 240 dwelling units. Construction of commercial development or a high turnover restaurant would not exceed the construction criteria air pollutant thresholds if the development is less than 277,000 sf.

The project includes 201 residential dwelling units, which is 85 percent of the construction criteria air pollutant threshold for a mid-rise apartment building. The project includes 11,969 sf of retail/commercial space which is three (3) percent of the construction criteria air pollutant threshold for retail/commercial land uses. The proposed land uses combined (residential and retail/commercial) would result in construction emissions totaling 87 percent of the allowable criteria air pollutant emissions for a mixed-use commercial/residential project. The proposed project is below the BAAQMD screening levels and, therefore, would not result in a significant temporary construction criteria air pollutant emissions impact. The project would not result in any new or more significant construction criteria air pollutant impacts than evaluated in the Downtown Strategy FEIR or 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Dust Emissions

Construction activities and grading operations associated with the project would result in wind blowing over exposed earth and would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality.

Impact AIR-1 The construction activities proposed by the project could result in short-term air quality impacts associated with dust generation. **(Significant Impact)**

Mitigation Measure: Consistent with mitigation in the Downtown Strategy FEIR, policies in the 2040 General Plan, and updated BAAQMD construction dust control measures, the following measure would reduce impacts from fugitive dust during construction activities to a less than significant level.

MM AIR-1 The BAAQMD has prepared the following list of feasible construction dust control measures which shall be implemented during project construction activities. These measures shall be included on all approved demolition, grading, and construction plans and contracts.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the District regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

(Same Impact as Approved Project [Less Than Significant Impact with Mitigation])

Construction Toxic Air Contaminant and $PM_{2.5}$ Health Risks

A health risk assessment was prepared by *Illingworth & Rodkin, Inc.* in February 2015 to evaluate potential health effects from construction activities at nearby sensitive receptors. As previously

described, the closest sensitive receptors to the project site are located in the residential apartments approximately 65 feet south of the project site, above the street-level businesses along W. Santa Clara Street, between N. Almaden Avenue and N. San Pedro Street. Additional sensitive receptors would be located within 500 feet of the project site in the future residential high rises (existing and under construction) to the north, west, and south. A dispersion model was used to predict the off-site concentrations of TACs and associated health hazards during construction activities. The models, assumptions, and results are described in detail in Appendix A.

Results of the health risk assessment indicated that the maximum residential child increased cancer risk is 47.5 in one million and the maximum residential adult increased cancer risk is 4.0 in one million. The residential child increased cancer risk is above the BAAQMD threshold of 10 in one million excess cancer cases per million (refer to Table 4.3-1).

Results of the health risk assessment indicated that maximum annual $PM_{2.5}$ concentration was 0.64 $\mu g/m^3$, which is above the BAAQMD threshold of 0.3 $\mu g/m^3$. Potential non-cancer health effects were also evaluated. The maximum predicted inhalation reference exposure level (REL) for diesel particulate matter (DPM) is 0.63 $\mu g/m^3$, which is much lower than the 5 $\mu g/m^3$ threshold. The Hazard Index (HI), which is the ratio of the annual DPM concentrations to the REL, is 0.13 which is below the BAAQMD significance threshold of a Hazard Index greater than 1.0.

In addition to TAC emissions from construction on the project site, there could be other active construction sites in the vicinity which, when combined with the project, could result in significant cancer risks and/or $PM_{2.5}$ emissions that exceed the BAAQMD cumulative risk thresholds (refer to table 4.3-1, above). Projects within 1,000 feet of the project site with the potential to have concurrent construction schedules include the Post and San Pedro residential tower project (1,120 feet or 0.20 miles south of the project site), Silvery Towers residential project (560 feet or 0.10 miles west northwest), and the Julian Street realignment project (570 feet or 0.10 miles north).

The maximum combined cumulative increase in cancer risk from all unmitigated construction projects would be 109.9 in one million for a child exposure which is above the BAAQMD cumulative threshold of 100 excess cases in one million. The maximum annual $PM_{2.5}$ concentration would be 0.94 $\mu g/m^3$, which is above the BAAQMD cumulative threshold of 0.8 μ/m^3. For non-cancer health effects due to chronic exposure to diesel particulate matter (DPM) the Hazard Index from all construction projects would be 0.08 which is below the BAAQMD Hazard Index threshold of 10.0 used to judge the significance of cumulative non-cancer health effects.

Impact AIR-2 Cancer risk and $PM_{2.5}$ emissions would exceed BAAQMD single-source thresholds at residential development near the project site during construction activities. Additionally, combined cumulative cancer risks and $PM_{2.5}$ emissions would exceed BAAQMD cumulative risk thresholds at nearby residential development during construction activities associated with the project. **(Significant Impact)**

Mitigation Measure: Consistent with policies in the 2040 General Plan, the following measure in combination with the BAAQMD construction dust control measures described above in MM AIR-1, would reduce impacts from construction TACs to a less than significant level.

MM AIR-2 The Project Proponent shall include the following measures on all approved plans and contracts for demolition, grading, and building permits and shall implement the measures during demolition, grading, and construction activities. A list of equipment specifications and the expected duration of operation shall be reviewed and approved by the Senior Planner of the Environmental Division of the Planning Department prior to the issuance of any demolition, grading, and building permits.

- All mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent;

- All diesel-powered portable equipment (i.e., aerial lifts, air compressors, concrete saws, and forklifts) larger than 50 horsepower operating on the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent; and

- Minimize the number of hours that equipment will operate, including the use of idling restrictions.

Implementation of the measures listed above would reduce the project construction excess cancer risk to 9.5 in one million and the maximum annual $PM_{2.5}$ concentration to 0.14 $\mu g/m^{3.}$ Cumulative excess cancer risk would be reduced to 71.9 in one million and $PM_{2.5}$ concentrations would be reduced to 0.62 $\mu g/m^3$. The measures above would reduce cancer risk and $PM_{2.5}$ concentrations during construction activities to a less than significant level, and the project would not result in any new or more significant impacts from construction TACs than evaluated in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.3.3.4 *Operational-Related Impacts from the Project*

Operational Criteria Air Pollutants

According to the Air Quality Guidelines, operation of a mid-rise apartment building would not exceed the operational criteria air pollutant thresholds if it is less than 494 dwelling units. Operation of commercial development would not exceed the operational criteria air pollutant thresholds if it is less than 99,000 sf, or 33,000 sf for a high turnover restaurant.

The project proposes 201 mid-rise apartments (41 percent of the number of units identified for the screening threshold) and 11,969 sf of commercial uses (36 percent of the square footage identified for the high-turnover restaurant screening threshold). The amount of residential units and commercial square footage proposed are below both screening thresholds. The combined emissions from operation of the project are not anticipated to exceed the BAAQMD thresholds of significance.

The project would, however, contribute to cumulative regional air quality impacts identified in the certified Downtown Strategy FEIR and the 2040 General Plan FEIR.

Impact AIR-3 While the project by itself would not result in significant regional air quality impacts, the project would contribute to the significant regional air quality impacts associated with buildout of the Downtown Strategy and 2040 General Plan. **(Significant Impact)**

Mitigation Measure: Consistent with the certified Downtown Strategy FEIR, the project shall implement the following measures to reduce regional air quality impacts associated with buildout of the Downtown Strategy and 2040 General Plan.

MM AIR-3 The project shall implement the following applicable Transportation Control Measures (TCMs), which shall be shown on the approved building permit plans.

- Design and locate buildings to facilitate transit access (e.g., locate building entrances near transit stops, eliminate building setbacks, etc.);
- Provide secure, weather-protected bicycle parking;
- Provide secure short-term bicycle parking for retail customers or non-commute trips; and
- Provide direct, safe, attractive pedestrian access from Planning Area to transit stops and adjacent development.

With implementation of TCMs the project would not result in any new or more significant impacts than addressed in the Downtown Strategy or 2040 General Plan. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

4.3.3.5 *Local Community Risks and Hazard Impacts to the Project*

Toxic Air Contaminants

Community health risk assessments look at all substantial sources of TACs located within 1,000 feet of a project site that would accommodate sensitive receptors. Sources of TACs include freeways or highways, busy surface streets, and stationary sources identified by BAAQMD.

Mobile sources of TACs within 1,000 feet of the project site include Highway 87 located 750 feet to the west, and W. Santa Clara Street located less than 100 feet to the south. At these distances, Highway 87 has a cancer risk of 2.56 in one million and a maximum $PM_{2.5}$ concentration of 0.023 $\mu g/m^3$, and W. Santa Clara Street has a cancer risk of 4.97 in one million and a maximum $PM_{2.5}$ concentration of 0.217 $\mu g/m^3$. Both mobile sources have a hazard index of less than 1.

Stationary sources of TACs within 1,000 feet of the project site, and their associated TAC risks are shown in Table 4.3-3, below.

Table 4.3-3: Stationary Sources of Toxic Air Contaminants

Facility Name	Facility Address	Health Risk		
		Cancer Risk (per million)	Maximum $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Equity Office Properties*	10 Almaden Boulevard	0.95	0.002	0.0
Carlyle Market	55 S. Market Street, Suite 230	2.45	0.004	0.0
Verizon Business	55 S. Market Street	5.20	0.009	0.0
Winthrop Management	60 S. Market Street	0.91	0.002	0.0
Pacific Bell	95 S. Almaden Boulevard	7.01	0.015	0.0
Qwest Communications Corp.	55 Almaden Boulevard	5.27	0.002	0.0
Legacy Partners II, LLC	1 Almaden Boulevard	1.93	0.003	0.0
Verizon Business	55 S. Almaden Boulevard	3.87	0.007	0.0
Jeppesen	225 W. Santa Clara Street	0.00	0.001	0.0
Equity Office Partners	225 W. Santa Clara Street	3.36	0.006	0.0
Rosendin Electric, Inc.	38 N. Almaden Boulevard	5.78	0.002	0.0
County of Santa Clara	161 N 1st Street	7.83	0.002	0.0
City Heights at Pellier Park (Generator)	175 W Saint James Street	0.85	0.001	--

NOTES
*Refined modeling was conducted for this source. All other sources were found to be below screening level risk.

There are no stationary or mobile sources of TACs in the project area that would expose future residents of the project site to TAC levels that exceed BAAQMD single-source thresholds of significance (10 in one million cancer risk, 0.3 $\mu g/m^3$ maximum $PM_{2.5}$ concentration, and 1.0 Hazard Index).

Combined TAC impacts are the combined excess cancer risk, annual $PM_{2.5}$ concentrations, and Hazard Index from all TAC sources within 1,000 feet of the project site. This includes traffic from Highway 87 and W. Santa Clara Street, and the stationary sources of TACs permitted by BAAQMD (listed in Table 4.3-3, above). Table 4.3-4, below, shows the combined impacts from all TAC sources located within 1,000 feet of the project site.

Table 4.3-4: Cumulative Cancer Risk, $PM_{2.5}$ Concentration, and Hazard Index

Scenario/Source	Cancer Risk (per million)	$PM_{2.5}$ Concentration ($\mu g/m^3$)	Hazard Index
Cumulative (Roadway + Stationary)	52.9	0.29	<0.1
BAAQMD Cumulative Threshold	***100***	***0.8***	***10.0***

The combined risk of all TAC sources in the project area are below the BAAQMD cumulative risk thresholds of significance (100 in one million excess cancer risk, 0.8 µg/m^3 annual concentration of $PM_{2.5,}$ and a Hazard Index of 10.0).

There are no sources of TACs in the project area that would individually or cumulatively exceed BAAQMD's thresholds of significance for cancer risk, $PM_{2.5}$, or Hazard Index. The project would not place sensitive receptors in an area impacted by stationary or mobile sources of TACs and would not, therefore, result in any new or more significant operational TAC impacts than evaluated in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.6 *Odors*

No new stationary odor sources are proposed as part of the project and there are no odor sources in the vicinity of the site that would emit substantial odors with the potential to impact the proposed project. The project, therefore, would not result in any new or greater impacts than were previously identified in the Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.4 Conclusion

The project by itself would not result in a significant impact related to consistency with the 2010 CAP, however, the project is a part of the development evaluated in the 2040 General Plan and would incrementally contribute to the growth of San Jose. **[Same Impact as Approved Project (Significant and Unavoidable Impact)]**

The certified Downtown Strategy FEIR included mitigation measures to minimize cumulative regional air quality impacts, but not to a less than significant level. Although the proposed project would not, by itself, result in any air pollutant emissions exceeding an established significance threshold, it would contribute to the previously identified significant air quality impacts resulting from implementation of the planned development considered in the Downtown Strategy. The project proposes to implement applicable and feasible measures to minimize regional air quality impacts and would not result in any new or more significant impacts than previously identified in the certified Downtown Strategy FEIR. **[Same Impact as Approved Project (Significant and Unavoidable Impact)]**

With implementation of mitigation measures identified in the section above, the project would not result in new or more significant air quality impacts regarding consistency with construction-related air pollutants, health risks or odor than previously identified in the certified Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.4 BIOLOGICAL RESOURCES

4.4.1 Setting

4.4.1.1 *Existing Conditions*

The project site is located in a developed, urban area of Downtown San José. There are no sensitive habitats or wetlands on or adjacent to the project site. The project site is entirely developed with a commercial/retail building and a surface parking lot with landscape trees. Habitats in developed urban areas are relatively low in species diversity. Species that use this habitat are urban adapted birds, such as rock dove, mourning dove, house sparrow, scrub jay, and starling. Due to the lack of sensitive habitats and the human disturbance on the project site, special-status plant and animal species are unlikely to occur.

4.1.1.2 *City of San Jose Tree Ordinance*

The City of San Jose Tree Removal Controls (San Jose City Code Section 13.32.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (17.8 inches in diameter) at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San Jose for the removal of ordinance sized trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. The project site has approximately 16 landscape trees located in the parking lot. There are no designated Heritage Trees on the project site.

4.4.1.3 *Santa Clara Valley Habitat Plan/Natural Community Conservation Plan*

Since the certification of the Downtown Strategy FEIR and the 2040 General Plan FEIR, the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) was adopted. The Habitat Plan is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Habitat Plan is a regional partnership between six Local Partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the cities of San José, Gilroy, and Morgan Hill) and two Wildlife Agencies (the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service).

The Habitat Plan identifies and preserves land that provides important habitat for endangered and threatened species. The land preservation is both to mitigate for the environmental impacts of planned development and public infrastructure operations and maintenance activities as well as to enhance the long term viability of endangered species.

The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban*. *Urban-Suburban* lands are comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and has one or more structures per 2.5 acres. The project site is not identified as important habitat for endangered and threatened species in the Habitat Plan.

4.4.1.4 *Applicable Plans, Policies and Regulations*

Envision San José 2040 General Plan

The following policies are specific to biological resources and are applicable to the proposed project.

Envision San José 2040 Relevant Biological Resources Policies

Policy	Description
Policy MS-21.4:	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6:	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

4.4.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	☐	1

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	☐	1
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐	1
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐	1
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐	1,6
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☐	☒	1,12

4.3.3 Biological Resources Impacts

4.3.3.1 *Impacts to Trees*

While the project site is developed and within a large urbanized area, there are numerous trees on-site that are part of the urban forest. Although the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or best habitat commonly or locally available within urban areas. Development of the proposed project would result in the loss of 16 on-site trees and the loss of up to six trees adjacent to the property on N. Almaden Avenue.

As a condition of approval, trees removed as a result of the project would be replaced in accordance with all applicable laws, policies or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

In accordance with City policy, trees which are removed would be replaced. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

The General Plan FEIR concluded that compliance with local laws, policies, and guidelines would reduce impacts to the urban forest to a less than significant level. The project would not result in any new or more significant impacts to trees than evaluated in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.4.3.2 *Impacts to Sensitive Species and Habitats*

While the project site is located within an urban environment, the trees on-site and on nearby properties, could provide nesting habitat and/or foraging habitat for raptors and migratory birds.

Migratory birds, including nesting raptors, are protected under the Migratory Bird Treaty Act and the California Department of Fish and Game Code Sections 3503, 3503.5, and 2800. Construction activities, including equipment noise and tree removal, may result in the loss of fertile eggs or nestlings, or otherwise lead to nest abandonment if they are nesting on or adjacent to the site or in trees proposed to be removed by the project. Construction disturbance that results in mortality of individual birds or causes loss of reproductive effort (i.e., nest abandonment or the incidental loss of fertile eggs or nestlings) would constitute a violation of State and Federal laws. The California Department of Fish and Wildlife (CDFW)[5] defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance.

Impact BIO-1 Construction activities associated with the proposed project could result in the loss of fertile eggs of nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

Mitigation Measure: In conformance with the MBTA and policies in the 2040 General Plan, the project shall implement the following mitigation measure to reduce impacts to related to abandonment of raptor and other protected migratory birds' nests.

MM BIO-1 Construction shall occur during the non-breeding season to the extent possible, from September through January. Any project construction that occurs within the breeding season, from February through August, shall include completion of pre-construction surveys for nesting birds by a

[5] Formally the California Department of Fish and Game.

qualified ornithologist to ensure that no nests will be disturbed during project implementation.

The pre-construction surveys shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the later part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction area for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction. The buffer zone shall remain in place until the young birds have fledged. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Given the developed nature of the site and surrounding area, and with implementation of MM BIO-1, above, development of the project site would not directly result in significant impacts to special-status species, sensitive habitat (including riparian habitat and wetlands), fish, or wildlife corridors. The project would not result in new or more significant impacts to sensitive species and habitats than identified in the certified Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.4.3.3 *Consistency with the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan*

The project site is located within the Habitat Plan study area and would be subject to all applicable Habitat Plan fees. The project site is designated as *Urban – Suburban* in the Habitat Plan and is not identified as important habitat for endangered and threatened species. Therefore, the development of the project site would not result in impacts to any of the Habitat Plan's covered species.

Nitrogen Deposition Impacts on Serpentine Habitat

Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the Habitat Plan study area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species.

The displacement of these species and subsequent decline of the several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and

result in cumulative habitat degradation. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the Habitat Plan for new vehicle trips are used to purchase conservation land for the Bay checkerspot butterfly.

At the time the Downtown Strategy and 2040 General Plan FEIRs were certified, the Habitat Plan was not yet adopted and there was no mechanism in place to offset the damaging effects of nitrogen deposition on serpentine plant populations. The 2040 General Plan FEIR identified nitrogen deposition as a significant and unavoidable impact. With adoption of the Habitat Plan which is now in effect, the cumulative impacts of nitrogen deposition from development on the Bay checkerspot butterfly are offset through conservation and management of land for the Bay checkerspot butterfly.

Traffic trips resulting in nitrogen deposition are covered under the Habitat Plan, and the Habitat Plan takes small projects into account, including the proposed project. The proposed project would not conflict with the Habitat Plan and is not subject to fees. Because the project is covered by the Habitat Plan, the project would contribute to an impact that is less than identified in the 2040 General Plan. **(Less Impact than Approved Project)**

4.4.4 Conclusion

Nitrogen deposition was identified as a significant unavoidable impact in the 2040 General Plan FEIR. The Habitat Plan has since gone into effect. Development on properties covered by the Habitat Plan, including the project site, would result in an overall decrease in nitrogen deposition compared to levels assumed in the 2040 General Plan FEIR. **(Less Impact Than Approved Project [Significant and Unavoidable Impact)]**

The project would not result in new or more significant impacts to biological resources than identified in the certified Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.5 CULTURAL RESOURCES

The following discussion is based in part on an Archaeological Sensitivity Evaluation, a Historic Resources Technical Report, and Department of Parks and Recreation (DPR) forms, completed by *Archaeological/Historical Consultants* in December, 2014. Copies of these reports are available in Appendices B, C, and D, respectively.

4.5.1 Setting

Cultural resources are evidence of past human occupation and activity and include both historical and archaeological resources. These resources may be located above ground or underground and have significance in the history and prehistory of the nation, State of California, and/or local or tribal communities. The southern portion of the project site is developed with a retail/commercial building that was constructed in 1945.

4.5.1.1 *Prehistoric Subsurface Resources*

Prehistoric resources are resources that have significance in prehistory, which is defined as events of the past occurring prior to advent of written records.

Paleontological Resources

Paleontological resources are fossils, the remains or traces of prehistoric life preserved in the geologic record. They range from the well-known and well publicized (such as mammoth and dinosaur bones) to lesser known but scientifically important fossils. The project site is underlain by floodplain deposits which have a low potential to yield significant fossils at the surface, but a high sensitivity for paleontological resources at depth.[6] Fossils discovered in floodplain deposits are generally expected to be associated with mammals, birds, and reptiles.

Prehistoric Archaeological Resources

Archaeological resources are resources associated with human activity in the past and encompass both prehistoric and historic resources.

Before European settlement, Native Americans resided in the Santa Clara Valley where the project site is located. The South Bay Area environment during the prehistoric period consisted of alluvial plains, foothills, water courses and bay margins that provided wild food and other resources.

The Native American people who originally inhabited the Santa Clara Valley belong to a group known as the "Coastanoan," or Ohlone, who broadly occupied the central California coast from the northern tip of the San Francisco Peninsula to Big Sur in the south and as far east as the Diablo Range. The Coastanoan/Ohlone people engaged in a hunting, fishing, and foraging economy that focused on the collection of seasonal plants and animal resources. However, their traditional lifestyle

[6] C. Bruce Hanson. 2010. *Paleontological Evaluation Report for the Envision San José 2040 General Plan, Santa Clara County, California.* Accessed May 26, 2013. Available at: <http://www.sanjoseca.gov/index.aspx?NID=2435>

disappeared by about 1810 when it was disrupted by diseases, a declining birth rate, and the growing California mission system established by the Spanish in the San José/Santa Clara area in 1777. According to the Downtown Strategy FEIR, the Downtown area of San Jose is an archaeologically sensitive area. Artifacts pertaining to the Ohlone occupation of San Jose have been found in the Downtown area, particularly near the Guadalupe River.

The project site has been evaluated as part of previous studies completed in the area, and no prehistoric era archaeological deposits have been recorded on the project site, or within 1/8 mile of the project site.

4.5.1.2 *Historic Archaeological Resources*

Historic resources are generally 50 years or older in age and include, but are not limited to buildings, districts, structures, sites, objects, and areas.

The project site is located near the northwestern corner of the original pueblo of San José, founded in 1777. The front of the project site, now N. San Pedro Street, faced the central plaza of the pueblo, while the rear of the project area bordered on the *acequia,* a canal that provided drinking water and irrigation. The project site was owned by the Alvirez (also spelled Albires) family from around 1783 to 1858; their adobe home stood on the northern part of the property from the 1830s to the late 1880s.

The Alvirez family was among the founding settlers of the pueblo of San Jose in 1777. Claudio Alvirez joined the Anza expedition as a servant and was granted a town lot and two rural parcels in the San José pueblo in 1783. The Alvirez pueblo was present on the site in the early 1830s, and was part of a line of five homes between the central plaza of the pueblo and the Guadalupe River. The property was passed to subsequent generations of the Alvirez family, whose members intermittently served in judicial and administrative roles for the pueblo of San Jose. In 1858, the property was sold to Peter Davidson who was one of the early Anglo residents of San Jose. Davidson was involved in City politics and kept a store on Market Street. In 1861, a portion of the project site was sold to George Crane, whose portion of the property was then passed on to William Wallace.

In the 1860's there was a barn on the site along N. San Pedro Street, as well is the Alvirez Adobe. By 1884 the adobe was still present on-site, along with a carpenter's shop and several sheds throughout the property. The Alvirez adobe was demolished sometime between 1884 and 1891.

Between the 1880's and early 1920's, a lecture hall belonging to the adjacent College of Notre Dame was located on the western 25 feet of the project site. The college of Notre Dame was founded in 1851 and was the first California institution to grant baccalaureate degrees to women. The lecture hall was removed in 1922 when the university moved to the City of Belmont. The area of the site with the former lecture hall is currently developed with the courtyard of the building on-site at 20 N. Almaden Avenue, and a part of the parking lot at 45 N. San Pedro Street.

After the formation of the City of San José in 1850, the project site saw a mix of commercial and residential uses. At 45 N. San Pedro Street, a carpenter's shop (1880s), beer bottling facility (1890s), and Chinese laundry (1909-1918) coexisted with several residential dwellings. Around 1926, the San José Paper Company constructed a warehouse building at 45 N. San Pedro Street. The warehouse

remained on-site until the mid-1960s when it was demolished to build a surface parking lot which has remained in place until the present.

The 20 N. Almaden Avenue project parcel became part of the Farmers' Union complex by 1891. The Farmer's Union Corporation was established in 1874 and served as an agricultural cooperative and bank. Originally located on the northwest corner of W. Santa Clara/N. San Pedro Street intersection, the Farmers' Union complex expanded to acquire 23-25 N. San Pedro Street as a feed mill in the 1880s, then 161 (Masson Building) and 169-177 (Lyndon Building) W. Santa Clara Street by 1940 and 1955, respectively.

The 20 N. Almaden parcel initially served as a courtyard for the Farmers' Union hardware store and warehouse. The property was used for pipe and wire storage. A two-story brick building was located at the western end of the parcel, abutting the College of Notre Dame lecture hall. By 1936, the brick building was used for sulphur and chemical storage on the first floor and sheet metal works on the second floor. Most of the remaining lot remained an open yard, with two wood frame storage buildings located on the western and southern end of the parcel. In 1945, the building currently standing at 20 N. Almaden Avenue was constructed as a warehouse extension of the Farmers' Union hardware store building. In 1960, it was converted for use as a hardware and tool shop; in the late 1960s it was further subdivided into three restaurants and office space, an arrangement that still exists today. The building is currently occupied by two restaurants, a tea shop, and a law office.

There are eighteen buildings that have been recorded as historical resources within 1/8 mile of the project site, including two buildings adjacent to the site. The back side of the Farmer's Union Building and other buildings associated with the Farmer's Union complex are located adjacent to the southern boundary of the project site. In addition, the building to the north currently occupied by the Old Spaghetti Factory, is also considered historic.

The Almaden Towers property at 25-47 Notre Dame Avenue (located approximately 300 feet west of the project site), has been subject to subsurface archaeological testing. Excavations of this site in 2004 and 2007 discovered remnants of historic foundations, trash dumps, and privies. A recent archaeological investigation at One South Market Street (located approximately 310 feet south of the project site) identified 44 archaeological features including several brick, adobe and stone walls or foundations, privies, pits, and sheet scatters. Eight of these were potentially eligible for the California Register of Historic Resources (CRHR). The subsurface investigations at 25-47 Notre Dame Avenue and One South Market Street suggest that nearby blocks also have a potential for intact historic-period sealed deposits.

4.5.1.3 *Applicable Plans, Policies, and Regulations*

Below is an overview of criteria used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP), the California Register of Historic Resources (CRHR), and the City of San Jose Criteria for Local Significance.

National Criteria

The National Register of Historic Places (National Register) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archaeology, engineering and culture, at the local, state, and national level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context" and second, the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the national, state, or local level. As listed under Section 8, "Statement of Significance," of the National Register Registration Form, these are:

A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
B. Property is associated with the lives of persons significant in our past.
C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
D. Property has yielded, or is likely to yield, information important to prehistory or history.

Second, for a property to qualify under the National Register's Criteria for Evaluation, it must also retain historic integrity of those features necessary to convey its significance. While a property's significance relates to its role within a specific historic context, its integrity refers to a property's physical features and how they relate to its significance. To determine if a property retains the physical characteristics corresponding to its historic context, the National Register has identified seven aspects of integrity:

1. Location – the place where the historic property was constructed or the place where the historic event occurred;
2. Design – the combination of elements that create the form, plan, space, structure, and style of a property;
3. Setting – the physical environment of a historic property;
4. Materials – the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property;
5. Workmanship – the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory;
6. Feeling – a property's expression of the aesthetic or historic sense of a particular period of time; and
7. Association – the direct link between an important historic event or person and a historic property.

State of California Criteria

The CRHR establishes a list of properties that are to be protected from substantial adverse change (PRC Section 5024.1). The California Office of Historic Preservation's Technical Assistance Series #6, *California Register and National Register: A Comparison,* outlines the differences between the Federal and State processes. The context types to be used when establishing the significance of a property for listing on the California Register are very similar, with emphasis on local and state significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States;
2. It is associated with the lives of persons important to local, California, or national history;
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

City of San Jose Criteria for Local Significance

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature' as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;

2. Identification as, or association with, a distinctive, significant or important work or vestige:
   a. Of an architectural style, design or method of construction;
   b. Of a master architect, builder, artist or craftsman;
   c. Of high artistic merit;
   d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
   e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or

f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A). The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B). Although the definitions listed are the most important determinants in evaluating the historic value of San José resources, the City of San José also has a numerical tally system that must be used in identifying potential historic resources. The "Historic Evaluation Sheet" requires resources to be rated according to visual quality/design; history/association; environment/context; integrity; reversibility; interior quality and conditions; and NRHP/CRHR status. A points-based rating system is used to score each building according to the extent to which it meets the criteria listed above. The final tallies are divided into three categories:

- Candidate City Landmark (CCL)
- Structure of Merit (SM) and/or Contributing Structure (CS)
- Non-Significant (NS)/Non-Contributing Structure (NCS)

According to the City of San José's *Guide to Historic Reports,* a City Landmark is "a significant historic resource having the potential for landmark designation as defined in the Historic Preservation Ordinance. Preservation of this resource is essential." The preservation of Structures of Merit "should be a high priority" but these structures are not considered significant resources for the purposes of CEQA.

4.5.1.4 *Structures on the Project Site*

There is only one structure on the project site, located at 20 N. Almaden Avenue. An historic Resources Evaluation was prepared to evaluate the building's potential for listing on the National, State, and local registers. The discussion below is a summary of the analysis findings. The full analyses are provided in Appendices C and D.

The building at 20 N. Almaden Street is a rectangular, one-story building with three reinforced concrete walls and one brick wall, and is currently occupied by two restaurants, a tea house, and a law office. The building is set back approximately 30 feet east from N. Almaden Avenue. To the north is the parking lot at 45 North San Pedro Street (also part of the project site), to the south is an open courtyard behind 151-161 W. Santa Clara Street, and to the east is a courtyard behind 29 N. San Pedro Street. The buildings to the east and south belong to the Farmers' Union complex.

The building at 20 N. Almaden Street was constructed as a warehouse addition to the Farmers' Union hardware store in 1945. While it is associated with the Farmer's Union complex (which includes one NRHP building and two other historic buildings) 20 N. Almaden Avenue was constructed after the Farmer's Union complex period of significance, was built in a different material, and is

architecturally undistinguished. The building generally retains integrity in location, design, setting, and association. However, internal partitions to the building and exterior alterations to add doors, windows, awnings, and decorative planking have moderately impacted the quality of materials. The addition of modern plate glass windows in aluminum strip sash and a two-foot high concrete cornice to the brick south wall, the oldest part of the structure, has also affected the building. The conversion of the structure first to retail and then to office and restaurant uses, has also seriously impacted the integrity of feeling. The building does not appear to be eligible for listing on the NRHP or CRHR. The building at 20 N. Almaden Avenue received a score of 30.1 on the City of San José Historic Evaluation Sheet, and is ineligible for consideration as a City Landmark.

4.5.1.5 *Structures Adjacent or in Close Proximity to the Project Site*

The project area is located in the historic core of Downtown San Jose, which includes numerous historic structures that are local landmarks or included on State or National registers. Eighteen historical resources have been recorded within 1/8 mile of the project site, as listed below. Resources listed in **bold** are adjacent to the project site:

1. Anglo-California National Bank Building, 101 W. Santa Clara Street
    - NRHP and City Landmark
2. Lamolle House, 141 W. Santa Clara Street
3. **Farmer's Union Building, 151 W. Santa Clara Street**
    - **NRHP and City Landmark**
4. **LeFranc Block/Masson Building, 161 W. Santa Clara Street**
    - **City Landmark**
5. **Lyndon Building, 177 W. Santa Clara Street**
    - **City Landmark**
6. DeAnza Hotel, 233 W. Santa Clara Street
    - NRHP and City Landmark
7. **Ravenna Paste Co. (Macaroni Factory)/Old Spaghetti Factory, 51 N San Pedro Street**
8. Coronado Livery Stables, 55-69 N. San Pedro Street
9. Slavich Building, 73 N. San Pedro Street
10. 87-97 N. San Pedro Street
11. Luis Maria Peralta Adobe, 184 W. St. John Street
    - NRHP and City Landmark
12. Sunol Building, 127-145 Post Street
    - City Landmark
13. Hatman-Normandin Block, 14-16 S. Almaden Avenue
    - City structure of merit
14. Berger Building, 44 S. Almaden Avenue
    - City structure of merit
15. IBM Building, 99 Notre Dame Avenue
    - City Landmark
16. Almaden Towers, 25-47 Notre Dame Ave.
17. Levi Strauss Factory/County Courthouse, 115 Terraine Street
18. 152 Terraine Street

4.5.1.6 *Applicable Cultural Resources Regulations and Policies*

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to cultural resources and are applicable to the proposed project.

Envision San José 2040 Relevant Cultural Resources Policies

Policies	Description
Policy EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. For reference, a jackhammer has a PPV of 0.09 in/sec at a distance of 25 feet. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

San José Downtown Historic Design Guidelines

The Downtown San José Historic Resources Design Guidelines (2004) apply to the Downtown Core. These Guidelines address development projects that include rehabilitation of historic resources and infill projects located within the immediate vicinity of City Landmarks. The Guidelines state that the success of new construction adjacent to historic resources in the Downtown Core does not depend on direct duplication of existing building forms, features, materials, and details. Rather, it relies on understanding the distinctive architectural character of the surrounding historic structures. The Guidelines identify eight context elements for new construction adjacent to historic resources:

1. Lot Patterns – Retain and respect historic lot patterns;
2. Massing – Retain and respect the massing of historic buildings. Add significantly higher new buildings, where appropriate, that are carefully sited in relationship to historic structures and predominant street "walls." New building masses adjacent to lower historic resources should step down in height and street facades should turn the corner to provide articulated visible side facades in order to reduce the impact on historic buildings;

3. Facades – Retain and respect the historic patterns and proportions of historic facades on a street. Add new facades that include features that are compatible in scale, material, detail, and massing with other facades on the street;
4. Corner Elements – Retain historic scale and relationships of corner buildings on the block and in the urban Downtown Core;
5. Rear Facades – Retain and respect features of existing historic rear facades and sites;
6. Entries – Retain and respect the scale of Historic entries that connect the buildings to the street;
7. Exterior Materials – Add new building materials that match the historic materials of masonry, terra cotta, limestone, stucco, glass mosaic, cast stone, concrete, metal, glass, and wood where possible; and
8. Vehicular and Pedestrian Access – Retain significant historic vehicular pedestrian access patterns of historic buildings, sites, and streets.

4.5.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒	☐	13
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☐	☒	☐	14
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	☐	3,14
4. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	☐	3,14

4.5.3 Cultural Resources Impacts

4.5.3.1 *Impacts to Paleontological and Archaeological Resources*

The project site is located in an area with a high sensitivity to paleontological resources. The project would require excavation to depths of approximately 24 feet, which may encounter native soils. There is a potential for the proposed project to encounter paleontological resources during construction.

While the project site has been evaluated as part of previous studies completed in the area and no prehistoric era archaeological deposits have been recorded on or adjacent to the project site, prehistoric artifacts have been found throughout the downtown area, particularly near the Guadalupe River.

The project site is located in an area where excavations at nearby properties (25-47 Notre Dame Avenue and One S. Market Street) have found historic archaeological resources, indicating the possibility for resources to be discovered elsewhere in the area. The project site was continuously occupied since the early 1800s and developed with a wide range of structures between at least 1830 through the 1960s including an adobe residence, a carpentry shop, frame residences, frame sheds, and brick and concrete warehouse buildings. Though a regular series of demolitions and reconstructions has characterized the history of the project site, none of the buildings that existed on the site appear to have had basements, suggesting that subsurface archaeological deposits are likely to be preserved on-site. The use of 45 N. San Pedro as a surface parking area since the 1960s, in particular, is likely to have preserved any surviving archaeological deposits in situ.

While no archaeological resources have been identified on or adjacent to the project site, there is a potential for buried prehistoric or historic archaeological or paleontological resources to be discovered on the project site. As described in the Downtown Strategy FEIR and 2040 General Plan FEIR, disturbance of cultural materials would be considered a significant impact if State laws and City regulations are not followed.

Impact CUL-1 Construction of the proposed development could impact unknown paleontological and/or archaeological resources, if present on-site. **(Significant Impact)**

Mitigation Measures: In conformance with the certified Downtown Strategy FEIR, and policies in the 2040 General Plan, the project shall implement the following mitigation measures to reduce impacts to unknown buried paleontological and archaeological resources (if present on-site) to a less than significant level.

MM CUL-1.1 Prior to the issuance of any grading permits, an archaeologist qualified in local historical and prehistorical archaeology shall complete a subsurface presence/absence program to determine whether any intact archaeological deposits are present on-site. Preparation of that work shall include aligning pertinent historic-period maps to the project area to identify specific sensitive areas that could be impacted by the proposed development. Should any archaeological features or deposits be identified, a focused research design and treatment plan shall be prepared to address any potential resources exposed during construction activities followed by archaeological excavation of these features. The results of the subsurface investigation and any focused research and design and treatment plan shall be submitted to the Environmental Senior Planner of the Planning Department for review and approval prior to approval of any grading permits, and any recommended measures shall be included on the approved grading and building permit plans.

MM CUL-1.2 In the event of the discovery of prehistoric or historic archaeological deposits or paleontological deposits, work shall be halted within 50 feet of the discovery and a qualified professional archaeologist (or paleontologist, as applicable) shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. These findings and recommendations shall be submitted in a report to the Environmental Senior Planner of the Planning Department. The recommendation shall be implemented and could include collection, recordation, and analysis of any significant cultural materials.

MM CUL-1.3 Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site within a 50-foot radius of the remains or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

MM CUL-1.4 A final report summarizing the discovery of cultural materials shall be submitted to the City's Environmental Senior Planner prior to issuance of building permits. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Environmental Senior Planner.

MM CUL-1.5 All personnel involved with site clearing, grading, or trenching will undergo a training session to aid them in the identification of significant historic and prehistoric cultural resources. Training by a qualified archaeologist will also establish the protocol necessary in the event cultural resources and/or human remains are found on the site.

[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]

4.5.3.2 *Impacts to Historic Buildings*

A project would have a significant impact on a historic resource if it would cause a substantial adverse change in the historic significance of that resource. A "substantial adverse change" is defined as the physical demolition, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resources would be materially impaired.

The Downtown Strategy FEIR noted that implementation of the Downtown Strategy would result tin impacts to historic buildings if mitigation measures were not implemented. The project proposes to redevelop property currently developed with a building that was constructed in 1945. The on-site building at 20 N. Almaden Street was evaluated and is not eligible for consideration as a City Landmark, nor is it eligible for the NRHP or the CRHR. The project would not directly impact any historic buildings, and would not result in any new or more significant impacts to historic buildings than identified in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same as Approved Project [Less Than Significant Impact])**

Impacts to the Integrity of Historic Resources

Over the years, modern buildings have been constructed throughout the Greater Downtown area. In the context of these modern developments, Downtown San José has generally become a modern area, albeit with small historic districts spread throughouty. The project area is not a historic district and the historic resources within the project area are not part of a historic district.

The *Secretary of the Interior's Standards for Rehabilitation* are applied to determine whether new construction (such as the proposed project) would result in adverse impacts to nearby historic resources. Specifically the Standards call for "new additions, exterior alterations, or related new construction [to] be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the [historic] property and its environment." In addition, the Downtown San José Historic Resources Design Guidelines provides direction for addressing historic landmarks and districts and augments the *Secretary of the Interior's Standards for Rehabilitation* by providing additional details for consideration. The Downtown Historic Resources Design Guidelines have several context elements for new construction adjacent to historic resources. The two most relevant to the project are regarding massing and exterior material.

The height, massing, and scale of the proposed building are greater than the adjacent historic and potentially historic buildings. In addition, while the project would use concrete and cement plaster to be consistent with the textured stucco, brick, and concrete of the surrounding historic and potentially historic buildings, the project would also use modern materials such as glass and metal. The original setting and historic resources in the immediate project area have, however, been altered over time.

As the Downtown has developed and redeveloped, the project area has increased in density, particularly in regards to commercial and residential high-rise buildings, and pedestrian and automobile traffic. The office building to the west of the site, residential development at One South Market Street to the southeast (currently under construction), residential development at the northwest corner of the N. Almaden Avenue/Carlysle Street intersection (currently under

construction), and other high-rise development within one to two blocks have greatly urbanized and changed the character of this part of Downtown San José.

The National Register has identified seven aspects of historic integrity: location, design, setting, materials, workmanship, feeling, and association. Although the construction of the proposed development would contribute to the loss of setting and feeling of the surrounding historic and potentially historic properties, this loss has already occurred and the project's contribution to this loss is not considered substantial. The historic resources and potential historic resources in the project area would continue to retain the other five aspects of integrity (location, design, materials, workmanship, and association) since the project would not result in the demolition or material alteration of the physical characteristics of these properties. Through retention of these five aspects of integrity that convey their historic significance, the project would not diminish the historic value of the nearby historic and potentially historic resources.

While the building at 20 N. Almaden Avenue was constructed as part of the Farmer's Union complex, the structure does not significantly contribute to the historic resource because, as described in Section 4.5.1.3, the building at 20 N. Almaden Avenue was not constructed during the Farmer's Union complex period of significance, and the building has been significantly altered over time. Demolition of the 20 N. Almaden Avenue building would not affect the listing of the Farmer's Union building as a NRHP or City Landmark.

While the proposed building would be different in height, massing, and materials compared to surrounding historic and potentially historic resources, the setting and feeling of these resources have already been compromised and construction of the proposed project would not affect the integrity of their location, design, materials, workmanship, and association. The proposed project would have a less than significant impact on historic resources in the area. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction-Related Impacts to Historic Resources

The proposed project would require below-grade excavation and foundation work, new building framing, and possibly pile driving. Project-related construction activities may produce groundborne vibrations that could result in significant adverse impacts to historic or potentially historic resources in the vicinity of the project site, including buildings associated with the Farmer's Union complex (including the Farmer's Union building and the buildings at 161 and 177 W. Santa Clara Street), and the Ravenna Paste Company building.

Impact CUL-2 Construction of the proposed project could damage nearby historic or potentially historic resources. **(Significant Impact)**

Mitigation Measures: In conformance with the certified Downtown Strategy FEIR and policies in the 2040 General Plan, the project proposes to implement the following measure to reduce significant impacts to historic and potentially historic resources near the project site during construction activities to a less than significant level.

MM CUL-2.1 A registered structural engineer, with a minimum of five years of experience in the rehabilitation and restoration of historic buildings, shall review excavation and shoring plans prepared for the proposed development. The structural engineer shall prepare a report of findings, recommendations, and any related design modifications necessary to retain the structural integrity of the Farmer's Union building, and the Ravenna Paste Company building. The structural engineer shall consult with a historical architect.

The historical architect must have a minimum of five years of experience in the rehabilitation and restoration of historic buildings, as well as meeting the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualifications Standards. The historical architect shall review designs and specifications for protective barriers required to protect the exposed walls of buildings associated with the Farmer's Union complex, and the Ravenna Paste Company building from potential damage caused by construction activities.

In addition, the structural engineer (with geotechnical consultation as necessary) shall determine whether, due to the nature of the excavations, soils, method of soil removal, and the existing foundation of buildings associated with the Farmer's Union complex, and the Ravenna Paste Company building, the potential for settlement would require underpinning and/or shoring. If underpinning and/or shoring is determined to be necessary, appropriate designs shall be prepared. All documents prepared in accordance with this measure shall be reviewed and approved by the City of San José's Historic Preservation Officer, or equivalent, prior to the issuance of any grading or building permits.

MM CUL-2.2 Prior to the issuance of any demolition, grading, or building permits, a historical architect and a structural engineer shall undertake an existing condition study of the Farmer's Union Building and associated buildings in the complex, and the Ravenna Paste Company building. The purpose of the study is to establish the baseline condition of the building(s) prior to construction, including the location and extent of any visible cracks or spalls. The documentation shall take the form of written descriptions and photographs, and include those physical characteristics of the resources that convey their historic significance and that justify their inclusion on, or eligibility for inclusion on, the California Register of Historical Resources and local register. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer, or equivalent.

The historical architect and structural engineer shall monitor the Farmer's Union building and associated buildings in the complex, and the Ravenna Paste Company building during construction. Any changes to existing conditions shall be reported, including, but not limited to, expansion of existing cracks, new spalls, or other exterior deterioration. The results of the

vibration monitoring shall be summarized and submitted in a report to the City's Historic Preservation Officer, or equivalent, shortly after substantial completion of each phase identified in the project construction schedule. If any problems with character defining features of a historic resource are discovered, the City shall be immediately notified and the structural engineer shall consult with the historical architect. If, in the opinion of the structural engineer in consultation with the historical architect, substantial adverse impacts to historic resources related to construction activities are found during construction, the monitoring team shall so inform the project sponsor, or sponsor's designated representative responsible for construction activities, as well as the City's Historic Preservation Officer, or equivalent. The project sponsor shall adhere to the monitoring team's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources. The Historic Preservation Officer, or equivalent, shall establish the frequency of monitoring and reporting.

Site visit reports and documents associated with claims processing shall be provided to the City of San Jose's Historic Preservation Officer, or equivalent.

MM CUL-2.3 A qualified geologist, or other professional with expertise in ground vibration and its effect on existing structures, shall prepare a study of the potential of vibrations caused by excavation and construction activities to affect adjacent structures. Based on the results of the study, specifications regarding the restriction and monitoring of pile-driving (if required) shall be incorporated into the contract. Initial pile-driving shall be monitored and if vibrations are above threshold levels, modifications shall be made to reduce vibrations to below established levels. A copy of the study, contract specifications, and monitoring reports shall be provided to the City of San José's Historic Preservation Officer, or equivalent.

MM CUL-2.4 The historical architect shall establish a training program for construction workers involved in the project that emphasizes the importance of protecting historic resources. This program shall include information on recognizing historic fabric and materials, and directions on how to exercise care when working around and operating equipment near the historic structures, including storage of materials away from historic buildings. It shall also include information on means to reduce vibrations from construction, and monitoring and reporting any potential problems that could affect the historic resources in the area. A provision for establishing this training program shall be incorporated into the contract, and the contract provisions shall be

reviewed and approved by the City of San José's Historic Preservation Officer, or equivalent.

[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]

4.5.4 Conclusion

With implementation of the identified mitigation measures, the project would not result in any new or more significant impacts to cultural resources than previously identified in the certified 2040 General Plan or Downtown Strategy FEIRs. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.6 GEOLOGY AND SOILS

The following is based on a Geotechnical Report prepared by *Langan Treadwell Rollo* in February 2015. This report is attached as Appendix E.

4.6.1 Setting

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain that lies between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range.

4.6.1.1 *On-Site Geologic Conditions*

Topography and Soils

The project site is relatively flat. Based on cone penetration tests (CPT) completed at the site, the site is underlain by alluvial deposits consisting predominantly of medium stiff to very stiff clay, sandy clay and silt layers interbedded with medium dense to very dense silty sand and clayey sand layers to the maximum explored depth of about 100 feet below ground surface (bgs). Up to three feet of clayey fill was encountered at the southwest corner of the site. In addition, layers of soft to medium stiff clay with trace organics, two to five feet thick, were encountered at depths of about 12 to 17 feet.

Groundwater

The California Geological Survey reports the historic high groundwater level in the project area at approximately 12 feet bgs. During the geotechnical investigation, groundwater was estimated at a depth of approximately 29 to 35 feet bgs. Seasonal fluctuations in rainfall influence groundwater levels and may cause several feet of variation.

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the United States. The project site is not located within a designated Alquist-Priolo Earthquake Fault Zone, and no known active or potentially active faults exist on the site. The risk of fault offset at the site from a known active fault is low. In addition, as discussed in the certified Downtown Strategy FEIR, no known surface expressions of active faults are believed to cross the site and, therefore, fault rupture is not a significant geologic hazard on the site.

Nearby active or potentially active faults, include the Monte Vista-Shannon and San Andreas Faults located 7.45 and 11.80 miles southwest of the site, respectively, and the Calaveras and Hayward faults, both located 8.70 miles northeast of the site. Due to the proximity of the project site to these active or potentially active faults, ground shaking, ground failure, and/or liquefaction as a result of an earthquake could cause damage to structures on the site.

Liquefaction

Liquefaction is a result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state after ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and groundwater level. Soil susceptible to liquefaction includes loose to medium dense sand and gravel, low-plasticity silt, and some low-plasticity clay deposits.

The project site is located within a State of California Hazard Zone for liquefaction and also within a Santa Clara County Liquefaction Hazard Zone. A liquefaction analysis was completed at the site. Thin layers of loose to medium dense sand with varying amounts of clay and silt, varying in thickness from a few inches to 3.5 feet, were encountered below the groundwater level to a depth of approximately 35 feet bgs. These layers could potentially liquefy during a major earthquake.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or "free" face such as an open body of water, channel, or excavation. There are no creeks or open bodies of water adjacent to site for lateral spreading to occur and, therefore, the potential for lateral spreading to affect the site is low.

Landslides

The site is not located within a California Seismic Hazard Zone for landsliding or within a Santa Clara County Landslide Hazard Zone. The project area is relatively flat and, therefore, the probability of landslides occurring at the site during a seismic event is low.

4.6.1.2 *Applicable Plans, Policies and Regulations*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault. As discussed previously, the project site is not located in an Alquist-Priolo Earthquake Fault Zone.

California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Building Code is renewed on a triennial basis every three years; the current version is the 2014 Building Standards Code.

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to geological resources and are applicable to the proposed project.

Envision San José 2040 Relevant Geology and Soil Policies

Policy	Description
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.6.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	☐	15
b. Strong seismic ground shaking?	☐	☐	☐	☒	☐	15
c. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐	15
d. Landslides?	☐	☐	☐	☒	☐	15
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐	1
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐	15
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	☐	☐	☐	☒	☐	15
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐	1

4.6.3 Geology and Soils Impacts

4.6.3.1 *Undocumented Fill and Expansive Soils*

Soil and fill on the site above the water table are predominantly composed of stiff to hard clayey soils which shrink and swell. As discussed in the certified Downtown Strategy FEIR, differential settlement, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if expansive soils are not considered during project design and construction.

Impact GEO-1 Without incorporating appropriate engineering into grading and foundation designs, the project could result in significant impacts from undocumented fill and expansive soils. **(Significant Impact)**

Mitigation Measure: Consistent with the certified Downtown Strategy FEIR, policies in the 2040 General Plan FEIR, and current standard practices in the City of San José, the project proposes to implement the following, previously approved Downtown Strategy mitigation measure to reduce significant soil impacts to a less than significant level.

MM GEO-1 Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from expansive soils and undocumented fill. Options to address these conditions may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements. **(Same Impact as Approved Project [Less Than Significant Impact with Mitigation)**

4.6.3.2 *Soil Erosion*

The project site is flat and developed, and only approximately 200 sf of soil is currently exposed on the site. Ground disturbance would be required for removal of the existing building and pavement, excavation, grading and construction of the proposed project. It is anticipated that approximately 24,000 cubic yards of soil would be excavated and exported from the project site. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code (which are discussed in more detail in *Section 4.9 Hydrology and Water Quality*) are the primary means of enforcing erosion control measures through the grading and building permit process. The 2040 General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. In addition, according to the certified Downtown Strategy FEIR, the project would not contribute to long-term erosion hazards. Because the project would comply with the regulations identified in the 2040

General Plan FEIR, implementation of the proposed project would have a less than significant soil erosion impact.

4.6.3.3 *Groundwater Impacts*

The project requires excavation to a depth of approximately 24 feet bgs for construction of the parking garage. Historically high groundwater in the project area has been reported at approximately 12 feet bgs, and groundwater was estimated at a depth of approximately 29 to 35 feet bgs during the 2015 geotechnical investigation prepared for the site. Construction of the project could encounter groundwater. Potential impacts associated with construction activities near or below the ground water table could include wet and unstable subgrade pavement, difficulty achieving compaction, and difficult underground utility installation.

As discussed in the certified Downtown Strategy FEIR, construction of below-ground structures could result in lowered groundwater levels in the project area. The lowered water level could increase the stress on underlying sediments, potentially resulting in settlement that could affect existing improvements. In addition, temporary shoring systems could cause settlement and damage existing structures, roadways, and/or utilities.

Impact GEO-2 Construction of the project (including a below grade parking garage) could be impacted by shallow groundwater. **(Significant Impact)**

Mitigation Measure: Consistent with the certified Downtown Strategy FEIR, policies in the 2040 General Plan FEIR, and current standard practices in the City of San José, the project proposes to implement the following, previously approved Downtown Strategy mitigation measure to reduce significant groundwater impacts to a less than significant level.

MM GEO-2 The design-level geotechnical investigation to be prepared for the project (and reviewed and approved by the Department of Public Works) shall evaluate the consolidation properties of the underlying sediments to determine the potential for settlement associated with dewatering and other potential earth movements. If it is determined that unacceptable settlement may occur with either active or passive dewater systems, then alternative groundwater control systems that do not require continuous groundwater removal (e.g., slurry wall) shall be required. The design-level geotechnical investigation shall also identify necessary measures associated with shoring of utility trenches, waterproofing, and designing for hydrostatic pressure (uplift). **(Same Impact as Approved Project [Less Than Significant Impact with Mitigation)**

4.6.3.4 *Seismicity and Seismic-Related Hazards*

Although the project site is not located on a known, active fault and is not located in an Alquist-Priolo Earthquake Fault Zone, the project site is located in a seismically-active region and would be subject to strong shaking in the event of seismic activity.

Due to the high groundwater table and layers of liquefiable soils on the site, there is a potential for liquefaction impacts during an earthquake. Liquefaction can result in ground failure (e.g. fissures), foundation bearing failure, and settlement of the ground surface, which can ultimately damage development and possibly endanger future residents on-site.

The project would not be subject to impacts from other seismic-related hazards including lateral spreading, slope instability, or landslides due to the flat topography of the site.

Impact GEO-3 The proposed project would be subject to seismic and seismic-related hazards including ground shaking and liquefaction. **(Significant Impact)**

Mitigation Measure: Consistent with the certified Downtown Strategy FEIR, 2040 General Plan FEIR, and current standard practices in the City of San José, the project shall implement the mitigation measure to reduce significant seismic and seismic-related impacts to a less than significant level.

MM GEO-3 The project shall be constructed in conformance with the recommendations of the design-level geotechnical investigation to be prepared for the project, as well as the 2014 California Building Code, or subsequent adopted codes. **(Same Impact as Approved Project [Less Than Significant Impact with Mitigation])**

4.6.4 Conclusion

The project would be designed and constructed in accordance with the recommendations of the design-level geotechnical investigation which would be reviewed by the San Jose Public Works Department. The project would not result in new or more significant geologic and seismic-related hazards than disclosed in the certified Downtown Strategy FEIR and the 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.7 GREENHOUSE GAS EMISSIONS

The following discussion is based in part on a Greenhouse Gas Emissions Analysis prepared in May 2015, by *Illingworth & Rodkin, Inc.* The report is attached as Appendix F.

4.7.1 Setting

4.7.1.1 *Background Information*

Unlike criteria air pollutant and TAC emissions, which are discussed in *Section 4.3* and have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.2 *Existing On-Site GHG Emissions*

The project site is currently developed with a retail/commercial building and surface parking lot. Operation of the parking lot generates minimal GHG emissions from energy required for nighttime lighting. The existing building at 20 N. Almaden Avenue generates GHG emissions from the combustion of fossil fuels (oil, natural gas, and coal) for energy production. The energy is used in various ways, directly and indirectly, ranging from electricity used to operate heating, ventilation, and air conditioning, to the fuel used to transport employees and customers to and from the site.

4.7.1.3 *Applicable Plans, Policies and Regulations*

California Assembly Bill 32 and Executive Order S-3-05

Assembly Bill 32 (AB 32), also known as the Global Warming Solutions Act, was passed in 2006 and established a goal to reduce GHG emissions to 1990 levels by 2020. Prior to the adoption of AB 32, the Governor of California also signed Executive Order S-3-05 into law, which set a long-term objective to reduce GHG emissions to 90 percent below 1990 levels by 2050. The California Environmental Protection Agency (CalEPA) is the state agency in charge of coordinating the GHG emissions reduction effort and establishing targets along the way.

In December 2008, CARB approved the *Climate Change Scoping Plan*, which proposes a comprehensive set of actions designed to reduce California's dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The First Update to the Scoping Plan was approved on May 22, 2014 and builds upon the Scoping Plan with new strategies and recommendations. The

First Update defines CARB's priorities over the next five years and lays the groundwork to reach long-term goals set forth in Executive Order S-3-05.[7]

California Senate Bill 375

Senate Bill 375 (SB 375), known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 in comparison to 2005 emissions. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.[8] The four major requirements of SB 375 are:

1. Metropolitan Planning Organizations (MPOs) must meet GHG emission reduction targets for automobiles and light trucks through land use and transportation strategies.
2. MPOs must create a Sustainable Communities Strategy (SCS), to provide an integrated land use/transportation plan for meeting regional targets, consistent with the Regional Transportation Plan (RTP).
3. Regional housing elements and transportation plans must be synchronized on eight-year schedules, with Regional Housing Needs Assessment (RHNA) allocation numbers conforming to the SCS.
4. MPOs must use transportation and air emissions modeling techniques consistent with guidelines prepared by the California Transportation Commission (CTC).

MTC and ABAG adopted *Plan Bay Area* in July 2013. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions. The project site is located within a PDA.[9]

BAAQMD CEQA Guidelines and the Bay Area 2010 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) identifies thresholds of significance for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. Under the BAAQMD CEQA Air Quality Guidelines, if a project would result in operational-related GHG emissions of 1,100 metric tons (MT) of carbon dioxide equivalents (CO_2e) (also called the brightline threshold) and/or exceed 4.6 MT per service

[7] California Environmental Protection Agency. Air Resources Board. *First Update to the AB 32 Scoping Plan*. Accessed 18 June 2014. Available here: <http://www.arb.ca.gov/cc/scopingplan/document/updatedscopingplan2013.htm>

[8] The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

[9] Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC). *Plan Bay Area.* 2013. Available at: http://files.mtc.ca.gov/pdf/Plan_Bay_Area_FINAL/0-Introduction.pdf. Accessed February 7, 2015.

population of CO_2e per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change.

In jurisdictions where a qualified GHG Reduction Strategy has been reviewed under CEQA and adopted by the decision makers, compliance with the GHG Reduction Strategy would reduce a project's contribution to cumulative GHG emission impacts to a less than significant level. Alternatively, the BAAQMD CEQA Guidelines outline a methodology for estimating GHG emissions to identify, project-by-project, if a given project would exceed the brightline and/or service population thresholds (described above).

The 2010 CAP addresses air emissions in the San Francisco Bay Area Air Basin. One of the objectives in the 2010 CAP is climate protection. The 2010 CAP includes emission control measures and performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The proposed project would be subject to this policy. The proposed project would be required to achieve LEED Certification, at minimum.

4.7.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	☐	2,10,16
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒	☐	2,10,16

4.7.3 Greenhouse Gas Emissions Impacts

4.7.3.1 *Operational Emissions*

The City of San Jose does not have an adopted GHG Reduction Strategy at this time. Therefore, GHG emissions from the project were calculated using the California Emissions Estimator Model (CalEEMod), based on an operational start year of 2018. The model calculated estimated emissions for transportation, area sources, electricity consumption, natural gas combustion, electricity usage associated with water usage and wastewater discharge, and solid waste landfilling and transport.

Total operational emissions were calculated at 1,664 MT CO_2e per year which is above the brightline threshold of 1,100 metric tons of CO2e per year. However, the calculations found that operation of the project would generate 2.56 MT CO_2e per year per service population (649 persons), which is below the efficiency threshold of 4.6 MT CO_2e per person per year. The project would be below the BAAQMD's efficiency threshold and, therefore, would result in a less than significant effect to GHG emissions.

CEQA did not require preparation of a GHG Analysis at the time the Downtown Strategy was prepared. However, consistent with subsequent CEQA requirements, GHG emissions have been analyzed at a project-level as part of this Addendum. The proposed project would have GHG emissions below the established BAAQMD operational thresholds, and would have a less than significant impact to GHG emissions. **(New Less Than Significant Impact)**

4.7.3.2 *Construction Emissions*

Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Based on CalEEMod modelling, it is estimated that construction activities associated with the project would result in GHG emissions totaling approximately 876 MT CO_2e from construction equipment

and construction workers' personal vehicles traveling to and from the construction site. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. Project construction would be temporary (approximately 27 months) and would not result in a permanent increase in emissions that would interfere with the implementation of AB32. The project's construction-related GHG emissions would be less than significant. **(New Less Than Significant Impact)**

4.7.3.3 *Applicable Plans, Policies and Regulations*

The City of San José does not have an adopted GHG Reduction Strategy. However, the project will be subject to the City's Green Building Ordinance and will follow energy conservation measures/design features that would further reduce GHG emissions, as follows:

- Exceed the State Title 24 California Energy Code requirements by at least 15 percent;
- Provide bicycle lockers;
- Install high performance lighting and controls;
- Maximize natural lighting, minimize summer heat gain, and increase passive heating in winter;
- Salvage and recycle construction waste;
- Use recycled content building materials;
- Use low-VOC emitting paints, sealants, coatings, and flooring systems; and
- Water efficient landscaping and irrigation design.

Consistent with the City's Private Sector Green Building Policy, the proposed project would be designed to achieve, at minimum, LEED Certification by incorporating a variety of design features to reduce energy and water use. The features could include community design and planning, site design, landscape design, building envelope performance, and material selections.

With conformance to the City's Private Sector Green Building Policy, Municipal Code including the Green Building Ordinance, and applicable General Plan policies, the project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHG emissions. **[Same Impact as Approved Project (No Impact)]**

4.7.4 Conclusion

Development of the proposed project, in conformance with applicable plans and policies including the City's Private Sector Green Building Policy, Municipal Code including the Green Building Ordinance, and General Plan policies would result in a less than significant GHG impact. **(New Less Than Significant Impact)**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a *Phase I Environmental Site Assessment* prepared in September, 2014, and an *Environmental Site Characterization* prepared in December, 2006, by Langan Treadwell Rollo. The 2006 report was reviewed as part of completion of the 2014 report. These reports are attached as Appendices G and H, respectively.

4.8.1 Setting

4.8.1.1 *Overview*

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include motor oil and fuel, metals (e.g., lead, mercury, and arsenic), asbestos, pesticides, herbicides, and chemical compounds used in manufacturing and other uses. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard when it is improperly treated, stored, transported, disposed of, or released into the atmosphere in an accident. Determining if such substances are present on or near project sites is important because exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

4.8.1.2 *Historical Use*

In 1884 and 1891, the site was partially developed and primarily occupied by various sheds and stables. The site was contained within a larger city block, Union Block, bound by San Augustine Street to the north (today known as W. Saint John Street), Union Street to the east (today known as N. San Pedro Street), Santa Clara Street to the south, and Santa Teresa Street to the west.

From at least 1899 through 1915, the site was occupied by various storage sheds and stables to the west, while the portion fronting N. San Pedro Street was occupied by three one-story dwellings, a Chinese laundry, and various one- and two-story structures including a feed mill, grain warehouse, and an oil and paint warehouse.

By 1939, the Union Block had been divided, with a frontage road along the western edge of the project site, where N. Almaden Avenue is today. By 1950, the northern portion of the site was occupied by the Zellerbach Paper Company with two paper warehouses located in back, off of N. Almaden Avenue. The southern portion of the site was occupied by a large warehouse that is still present on-site today. By 1968, with the exception of the large warehouse, the site was vacant and occupied by the existing paved parking lot.

4.8.1.3 *On-site Sources of Contamination*

Lead and Asbestos

The building located in the southern part of the project site was constructed in 1945 and renovated in the 1960s. Due to the age of the building, asbestos containing materials (ACMs) and/or lead based paint may be present in the building materials. ACMs are of concern because exposure to ACMs has

been linked to cancer. ACMs are define by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations define asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight.

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds continued to be used as corrosion inhibitors, pigments and drying agents from the early 1950's. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million [ppm]) and in 1978, to 0.06 percent (600 ppm).

Hazardous Materials Releases

Aside from minor oil staining in the parking area, the site reconnaissance completed in 2014 did not find any evidence of hazardous materials releases at the site.

In 2006, four exploratory borings were drilled to depths ranging from 20 to 35 feet below ground surface (bgs) in order to assess the presence of total recoverable petroleum hydrocarbons (TRPH), total petroleum hydrocarbons (TPH),[10] volatile organic compounds (VOCs),[11] semi-volatile organic compounds (SVOCs),[12] polychlorinated biphenyls (PCBs),[13] and heavy metals in soil and groundwater beneath the site. During a geotechnical investigation that was prepared for the site in 2015, groundwater was estimated at a depth of approximately 29 to 35 feet bgs. Analytical results of soil and groundwater samples did not indicate the presence of elevated concentrations of contaminants or heavy metals. Additional details pertaining to on-site soil and groundwater testing completed at the site in 2006 can be found in Appendix H.

Database Search

A database search was completed to determine whether the project site is listed on any Federal, State, local, and/or brownfield databases as a known or suspected source of contamination, or a site that handles or stores hazardous materials. The site was not listed on any of the regulatory databases and inquiries made at both the Santa Clara Department of Environmental Health (SCCDEH) and San Jose Fire Department offices revealed no evidence of past releases at the site.

[10] Total petroleum hydrocarbon (TPH) is a term used for any mixture of hydrocarbons that are found in crude oil.

[11] VOCs are emitted as gases from certain solids or liquids often found in common household items such as paints and lacquers, paint strippers, cleaning supplies, pesticides, building materials and furnishings, office equipment such as copiers and printers, correction fluids and carbonless copy paper, graphics and craft materials including glues and adhesives, permanent markers, and photographic solutions. VOCs include a variety of chemicals, some of which may have short- and long-term adverse health effects. Many VOCs are known to cause cancer in animals and are suspected of causing cancer in humans.

[12] An SVOC is an organic compound which has a boiling point higher than water and which may vaporize when exposed to temperatures above room temperature.

[13] PCBs are any of a family of industrial compounds used as lubricants, heat-transfer fluids, and plasticizers. The manufacture and use of PCBs has been restricted since the 1970s because they are very harmful to the environment, being especially deadly to fish and invertebrates. PCBs stay in the food chain for many years.

4.8.1.4 *Off-site Sources of Contamination*

Hazardous Materials Releases

During the 2014 site reconnaissance, properties adjacent to the project site were observed to identify any hazardous conditions that could affect the site. No storage tanks or fill ports were noted, nor was there evidence of chemical releases or leaks.

Database Records Search

As discussed in the Downtown Strategy FEIR, hazardous materials releases have been reported on properties within the Downtown area that could represent a health risk to construction workers and future residents of the site. A database search was completed for surrounding properties to determine whether contamination exists on nearby sites that could affect the project site.

Several neighboring properties were identified on environmental regulatory agency lists and records; however, most of the nearby listings had no violations, were closed by the applicable regulatory agency, were hydrologically cross-gradient or down-gradient, or were a significant distance away from the site. Therefore, these sites do not present an environmental risk whereby contaminants could migrate beneath the project site. Two sites were, however, identified as having potential sources of hazardous substances or petroleum products which based on groundwater flow direction, may affect the soil and groundwater quality beneath the project site. These two sites are as follows:

1. *76 Notre Dame Avenue* was granted case closure by the SCCDEH in August, 2014, however residual soil and groundwater still exists on the property.

2. *211 West Santa Clara* is currently an open case with the SCCDEH. Ongoing subsurface investigations are being conducted to further delineate the residual petroleum hydrocarbon contamination in the soil and groundwater from two former underground storage tanks.

Refer to Appendix H for more detail regarding soil and groundwater management that has taken place to address contamination on these two sites over the years.

4.8.1.5 *Other Hazards*

Airports

Norman Y. Mineta San José International Airport (Airport) is located approximately 2.5 miles northwest of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is within the Airport Influence Area, a composite of areas surrounding the Airport that are affected by noise, height, and safety considerations.[14] The CLUP also offers land use compatibility

[14] Walter B. Windus, PE. Aviation Consultant. *Comprehensive Land Use Plan: Norman Y. Mineta San Jose International Airport.* May 2011. Available at: http://www.sccgov.org/sites/planning/PlansPrograms/ALUC/Documents/ALUC_20110525_SJC_CLUP.pdf. Accessed February 9, 2015.

guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the Airport's continuing operations.

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR, Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure height greater than approximately 55 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.

The project is not located in the vicinity of a private airstrip.

Wildfire Hazards

The project site is located in Downtown San Jose, surrounded by urban development. The project site is not located at the urban edge and, therefore, is not located within a Very-High Fire Hazard Severity Zone.

4.8.1.6 *Applicable Plans, Policies and Regulations*

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to hazards and hazardous materials and are applicable to the proposed project.

Envision San José 2040 Relevant Hazardous Material Policies

Policy	Description
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.

Envision San José 2040 Relevant Hazardous Material Policies

Policy	Description
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.8.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐	17
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐	1,17
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐	☒	1,17
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐	17

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1,3,5
6. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐	5
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	☐	1,3

4.8.3 Hazards and Hazardous Materials Impacts

4.8.3.1 *On-Site Sources of Contamination*

Hazardous Materials Releases

During the 2014 site reconnaissance, no evidence of hazardous releases were noted aside from minor staining in the parking lot area. Soil samples taken on-site in 2006 did not find elevated levels of contaminants or metal in soil or groundwater beneath the site. The project site is not listed on any regulatory databases. It is unlikely that workers and future residents of the site would be exposed to elevated levels of contaminants for a hazardous materials releases originating from a source on the project site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Asbestos-Containing Materials and Lead-Based Paint Impacts

The on-site building at 20 N. Almaden Avenue was built in 1945 and renovated in the 1960s. The building may have materials that contain ACMs and/or lead-based paint. The project proposes to demolish the existing building on-site which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. As a result, an asbestos survey must be conducted under National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines. In addition, NESHAP guidelines require that all potentially friable ACM be removed prior to building demolition or renovation that may disturb the ACM.

If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. It will be necessary, however, to follow the requirements outlined by Cal-OSHA Lead in Construction Standard, Title 8, California Code of Regulation (CCR) 1532.1 during demolition activities; these requirements include employee training, employee air monitoring, and dust control. If lead based paint is peeling, flaking, or blistered, it will be removed prior to demolition. It is assumed that such paint will become separated from the building components during demolition activities and must be managed and disposed of as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

Impact HAZ-1 Due to the age of the building on-site, lead and/or asbestos could be present in building materials which could affect the health of works and nearby residents. **(Significant Impact)**

Mitigation Measure: Consistent with mitigation in the certified Downtown Strategy FEIR, policies in the 2040 General Plan, and current standard practices in the City of San José, the project shall conform to the following regulatory programs and implement the following measures to reduce significant impacts from lead and asbestos to a less than significant level.

MM HAZ-1 The following standard measures shall be implemented to reduce impacts due to the presence of asbestos and/or lead-based paint:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials and/or lead-based paint.

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]

4.8.3.2 *Off-Site Sources of Contamination*

Soil and Groundwater Contamination Impacts

The Downtown Strategy identified a total of 41 known sites associated with hazardous materials releases in the Downtown area of San José and 84 known hazardous materials release sites within one-half mile of the downtown area boundary. Soil contamination is localized and, because there are no hazardous materials users directly adjacent to the project site, off-site soil contamination would have no direct exposure impact on the proposed project.

Although soil contamination is localized, contaminants can migrate from their original source through groundwater and contaminate nearby areas. Soil and groundwater sampling completed in 2006 found no evidence of off-site contamination that had migrated onto the project site, however, since 2006 contaminants may have migrated beneath the site from known contaminated sites located at 76 Notre Dame Avenue and 211 W. Santa Clara Street, as described in Section 4.8.1.4. During the geotechnical investigation, groundwater was estimated at a depth of approximately 29 to 35 feet bgs. The project includes two levels of below-grade parking which will require excavation to depths of 24 feet bgs. If contaminants have migrated beneath the site since 2006, then workers and the public could be exposed to elevated levels of contamination during construction activities.

Impact HAZ-1 Workers and the public could be exposed to elevated levels of contamination during construction activities due to contaminants in groundwater and soil which may have migrated beneath the site from nearby off-site hazardous materials releases. **(Significant Impact)**

Mitigation Measure: Consistent with mitigation in the certified Downtown Strategy FEIR and policies in the 2040 General Plan, the project shall conform to the following measure to reduce significant impacts from possible migrating hazardous materials to a less than significant level.

MM HAZ-1 A Soil and Groundwater Management Plan (SGMP) and a Health and Safety Plan (HSP) shall be prepared prior to site development activities to protect workers and the public from exposure to petroleum hydrocarbons and VOCs which may have migrated beneath the site from off-site hazardous materials releases. The SGMP shall contain requirements to be implemented during excavation activities in the event that unanticipated hazardous materials are encountered. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize exposure of workers and the public to hazardous materials during construction activities.

Remediation activities at 211 Santa Clara Street are ongoing and the extent of contamination is not yet clearly defined. SCCDEH files shall be reviewed by contractors each month to evaluate ongoing investigative work in the delineation of the soil and groundwater contamination and gradient direction. Should the status of this hazardous materials release change, or new information becomes available that possibly affects the environmental conditions of the site, then work at the project site shall stop until the SGMP and HSP are revised to include the updated information.

In the event contamination or suspected contamination is encountered during construction activities, soil and/or groundwater samples shall be collected to determine the content and concentration of contaminants. Samples shall be tested for contaminants of concern; those identified from neighboring off-site sources at 211 W. Santa Clara Street and 76 Notre Dame Avenue. If the results are above regulatory risk-based thresholds for the proposed land use and construction worker health and safety, the Santa Clara County Environmental Health Department shall be notified to determine if regulatory oversite and corrective actions are warranted. The County Health direct line is (408) 918-3400.

With implementation of mitigation as described above, the project would not result in exposure of workers or the public to hazardous materials in soil and groundwater during construction activities. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

Once construction activities are complete, the project site would be capped by the proposed development and residents of the site would not come in contact with soils or groundwater beneath the site**. [Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.3.3 Other Hazards

As the project proposes to construct a building of 80 to 90 feet in height above ground, compliance with FAR Part 77 will require submittal to the FAA for airspace safety review. In turn, City General Plan and CLUP policies require FAA issuance of "no hazard" determinations prior to development approval, with any conditions set forth in an FAA no-hazard determination also incorporated into the

City's project approval. Compliance with these federal and local regulations and policies will ensure the project will not be a hazard to aircraft operation. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (No Impact)]**

The proposed project is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people of structures to any risk from wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.8.4 Conclusion

With implementation of the identified mitigation measures, the project would not result in new or more significant hazardous materials impacts than identified in the Downtown Strategy FEIR or the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 *Hydrology and Drainage*

Surface Water

The project site is located within the Guadalupe River Watershed, a 170-square-mile area with multiple small-creek watersheds. The 0.98-acre project site is developed with a surface parking lot and a restaurant/office building, and is almost entirely impervious, with the exception of small dirt patches where trees are located. Storm drain lines serving the project area include 36-inch storm drains in N. Almaden Avenue and Carlysle Street, and a 24-inch diameter storm drain in W. Santa Clara Street.[15]

Groundwater

During a geotechnical investigation prepared for the site in 2015, groundwater was estimated at a depth of approximately 29 to 35 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

The project site is not located within a natural or facility groundwater recharge area.[16]

4.9.1.2 *Flooding and Other Inundation Hazards*

Flooding

The project site is not located in a 100-year floodplain. According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map, the project site is designated Zone D, which is defined as areas where flood hazards are undetermined, but possible.[17] There are no City floodplain requirements for Zone D.

As identified in the 2040 General Plan FEIR, the project site is not located in an area that would be inundated in the event of dam failure.

Earthquake-Induced Waves and Mudflow Hazards

Per the Downtown Strategy FEIR, due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea

[15] City of San Jose Department of Public Works. Stormwater, water, and sanitary sewer maps. Available at: https://cpms.sanjoseca.gov/emap/. Accessed February 7, 2015.
[16] Santa Clara Valley Water District. *Groundwater Management Plan.* 2012. Available at: http://www.valleywater.org/Services/Groundwater.aspx. Accessed February 7, 2015.
[17] Federal Emergency Management Agency. *Flood Insurance Rate Map*. *Panel 06085C0234H*. May 18, 2009. Available at: https://msc.fema.gov/portal/search?AddressQuery=45%20N.%20San%20Pedro%20Street%2C%20San%20Jose%2C%20CA. Accessed February 3, 2015.

level rise. The project site is located in a flat, urbanized area and, therefore, is not subject to mudflows.

4.9.1.3 *Water Quality*

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from the project area are collected by storm drains. The runoff may contain contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, coolants, and heavy metals. In sufficient concentration, these pollutants can adversely affect the aquatic habitats to which they drain.

Under existing conditions, the project site is developed with a building and a paved parking lot and runoff from the site likely contains pollutants typical of urban, developed environments, including sediment and motor oil.

4.9.1.4 *Applicable Plans, Policies and Regulations*

Federal Emergency Management Agency

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer funded disaster relief for flood victims and the increasing amount of damage caused by floods. The NFIP makes federally-backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

FEMA manages the NFIP and creates Flood Insurance Rate Maps (FIRMs) that designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area with a one in one hundred (one percent) chance of being flooded in any one year based on historical data.

Clean Water Act and Porter-Cologne Water Quality Control Act

The Federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. The CWA forms the basis for several state and local laws throughout the nation. Its objective is to reduce or eliminate water pollution in the nation's rivers, streams, lakes, and coastal waters. The CWA outlines the Federal laws for regulating discharges of pollutants as well as sets minimum water quality standards for all "Waters of the United States." The Porter-Cologne Act established the State Water Resources Control Board (SWRCB).

Several mechanisms are employed to control domestic, industrial, and agricultural pollution under the CWA. At the federal level, the CWA is administered by the EPA. At the state and regional level, the CWA is administered and enforced by the SWRCB and the nine Regional Water Quality Control Boards (RWQCB). The State of California has developed a number of water quality laws, rules, and regulations, in part to assist in the implementation of the CWA and related Federally-mandated water quality requirements. In many cases, the Federal requirements set minimum

standards and policies and the laws, rules, and regulations adopted by the State and regional boards exceed the Federal requirements.

CWA Section 303(d) lists polluted water bodies which require further attention to support future beneficial uses. San Francisco Bay and the Guadalupe River are on the Section 303(d) list as an impaired water body for several pollutants.

State Water Quality Control Board Nonpoint Source Pollution Program

In 1988, the SWRCB adopted the Nonpoint Source Management Program in an effort to control nonpoint source pollution in California. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by RWQCB under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- They disturb one acre or more of soil; or
- They disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirements

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the NPDES Municipal Permit, redevelopment projects that add and/or replace more than 10,000 sf of impervious surface, or 5,000 sf of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all of the post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project qualifies for Special Project credit reduction, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics.

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 sf or more of impervious surfaces.

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the Santa Clara Permittees Hydromodification Management Applicability Map for the City of San José, the project is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located in a subwatershed greater than or equal to 65 percent impervious.[18]

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to hydrology and water quality and are applicable to the proposed project.

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policy	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

[18] Santa Clara Valley Urban Runoff Water pollution Prevention Program. *Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements.* 2011. Available at: http://www.scvurppp-w2k.com/HMP_app_maps/San_Jose_HMP_Map.pdf. Accessed February 7, 2015.

Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.9.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	☐	1,3
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	☐	18
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒	☐	1,3
4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	☐	1,4
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	☐	1,3
6. Otherwise substantially degrade water quality?	☐	☐	☐	☒	☐	1,3

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	☐	19
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	☐	19
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	☐	3,19
10. Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1,17

4.9.3 Hydrology and Water Quality Impacts

4.9.3.1 *Drainage and Surface Water*

The project site is developed with a surface parking lot and a building. There are no waterways on the project site; therefore, development of the project would not alter the course of a stream or river.

Currently, approximately 52,622 sf of the project site is impervious and approximately 200 sf is pervious due to small patches of dirt where trees are located. Implementation of the project would increase pervious surfaces on the site by 2,250 sf for a total of 50,172 sf of impervious surfaces and 2,450 sf of pervious surfaces. The additional square footage of pervious surfaces is associated with new landscaping on site. The project would increase the amount of pervious surfaces on-site and would not increase stormwater runoff from the site. The existing storm drain system would continue to accommodate flows from the project site.

The 2040 General Plan FEIR concluded that implementation of General Plan policies and existing state and local regulations would avoid substantial new impacts to the water quality of surface waters. The project would incrementally increase on-site pervious surfaces and would comply with all applicable laws, policies, and regulations. Therefore, the project would have no new or more significant impact on water quality than described in the 2040 General Plan FEIR or Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.3.2 *Groundwater*

The project requires excavation to a depth of approximately 24 feet bgs for construction of the parking garage. Historically high groundwater in the project area has been reported at approximately 12 feet bgs, and groundwater was estimated at a depth of approximately 29 to 35 feet bgs during the 2015 geotechnical investigation prepared for the site. The project includes construction of an underground parking garage that would extend approximately 20 feet bgs. Construction of the project could encounter groundwater. As discussed in the certified Downtown Strategy FEIR, construction of below-ground structures could result in lowered groundwater levels in the project area. The proposed development could interfere with the shallow groundwater aquifer, but would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers.

Groundwater levels fluctuate and dewatering may be required during project construction. The short-term discharge of water produced from construction dewatering to the sanitary sewer should be acceptable, under permit by the City of San José, Environmental Services Department, Watershed Protection Division in accordance with the Watershed Protection discharge requirements. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Dewatering of the site for construction of the below-grade parking garage would take less than one year.

Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. Compliance with local and regional policies and regulations would avoid any water quality impacts to groundwater during construction.

The project site is not located within a natural or facility groundwater recharge area. In the event post-construction dewatering is required, the project shall be reviewed by the City's Environmental Services Engineering section to ensure conformance with the City's Stormwater Permit requirement during the Building Permit stage (standard permit condition).

For the reasons discussed above, the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. The project would not result in a new or more significant impact on groundwater than described in the 2040 General Plan FEIR and Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.3.3 *Flood Impacts and Other Inundation Hazards*

The project site is not located in a 100-year floodplain and, therefore, would not place housing within a 100-year flood hazard area or impede or redirect flood flows within a 100-year flood hazard area. The project site is not subject to seiche, tsunami, sea-level rise, or mudslide hazards, and is not located in a dam failure inundation area.[19] **[Same Impact as Approved Project (No Impact)]**

[19] City of San José. Envision San José 2040 General Plan Final Environmental Impact Report. November 2011.

4.9.3.4 *Water Quality Impacts*

Construction Impacts

Construction of the proposed project, including grading and excavation activities, may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments and other manmade products that are ultimately discharged into the storm drainage system. The project site is 0.98 acres in size and development of the site would not disturb more than one acre of soil; therefore, it is not required to obtain a NPDES General Permit for Construction Activities. If reciprocal agreements for enhancements on the adjacent 0.23 acres of property to the south result in the project disturbing over one acre of soil (to allow installation of the proposed paseo), then the project would be required to comply with the NPDES General Permit for Construction activities.

All development projects in the City of San José are required to comply with the City's Grading Ordinance whether or not the project is required to obtain a NPDES General Permit. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the Best Management Practices (BMPs) that would be implemented to minimize the runoff of stormwater pollutants.

Standard Permit Conditions: Consistent with the General Plan, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to the following:

- Utilize on-site sediment control BMPs to retain sediment on the project site;
- Utilize stabilized construction entrances and/or wash racks;
- Implement damp street sweeping;
- Provide temporary cover of disturbed surfaces to help control erosion during construction; and
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

With the implementation of the above standard permit conditions, the project would not result in new or more significant construction-related water quality impacts than disclosed in the 2040 General Plan or the Downtown Strategy FEIRs. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Post-Construction Impacts

The entire project site is impervious with the exception of small patches of dirt where trees are located. Development of the proposed project would generally replace existing impervious surfaces with new impervious surfaces. The project would result in a small reduction in the amount of impervious surfaces on-site.

The project qualifies as smart growth development and is considered a Special Project. As a Special Project, LID reduction credits may apply based on location and density criteria that allow non-LID treatment for a portion of the project's runoff, but only after the use of on-site and off-site LID is evaluated. LID reduction credits allow greater flexibility in meeting stormwater treatment requirements, based on the potential technical challenges of implementing LID treatment on high-density sites.

Construction of the project would affect more than 10,000 sf of impervious surfaces and, therefore, is required to comply with the City's Urban Runoff Policy 6-29 and RWQCB's MRP NPDES Permit/C.3 requirements. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with these policies shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The 2040 General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. Compliance with the City's Grading Policy, the City's Urban Runoff Policy 6-29, and RWQCB's MRP NPDES Permit/C.3 requirements would result in the same less than significant impacts on water quality as described in the 2040 General Plan FEIR and Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.4 Conclusion

With compliance to applicable laws, policies, and regulations the project would not result in any new or more significant hydrology or water quality impacts than identified in the certified Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10 LAND USE

4.10.1 Setting

4.10.1.1 *Existing Land Uses*

The 0.98-acre project site is currently developed with a surface parking lot and a building containing two restaurants, a tea shop, and a law office.

4.10.1.2 *Surrounding Land Uses*

The project site is located in Downtown San José and is surrounded by a mix of urban land uses. The project area contains a variety of structures ranging from modern high rises to older, single-story and two-story developments. N. San Pedro Street and N. Almaden Avenue which form the eastern and western project site boundaries, respectively, are both two-lane roadways with sidewalks on both sides of the streets.

Development east of the site across N. San Pedro Street consists of a five-story parking structure. West of the site, across N. Almaden Avenue, is an enclosed office building with below-grade parking and ground floor retail on W. Santa Clara Street. North and south of the site are older (circa 1800s) one- and two-story commercial/retail buildings. The commercial building fronting N. San Pedro Street adjacent to the southern boundaries of the project site, has a theater on the second floor. A small courtyard area is located behind the theater, adjacent to the project site. Northwest of the site, across N. Almaden Avenue is a large residential high rise that is currently under construction. This building will have ground-floor commercial development and below-grade parking.

4.10.1.3 Existing Land Use Designation and Zoning

The project site is designated *Downtown* by the *Envision San José 2040 General Plan.* The project site is zoned *DC – Downtown Primary Commercial,* consistent with the General Plan.

The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, density of up to a floor area ratio (FAR) of 15.0 and residential densities up to 350 dwelling units per acre (du/ac). Under this designation, residential projects should generally incorporate ground floor commercial uses.

Permitted land uses under the DC zoning are consistent with the *Downtown* General Plan land use designation. Based on the DC zoning, development shall only be subject to the height limitations necessary for the safe operation of Mineta San José International Airport. There are no minimum setbacks required.

4.10.1.4 *Applicable Plans, Policies, and Regulations*

Federal Aviation Regulations, Part 77/City of San José Avigation Easement

As previously described in *Section 4.8, Hazards and Hazardous Materials,* the Norman Y. Mineta San José International Airport (Airport) is located approximately 2.5 miles northwest of the project site. Given the project's proximity to the airport, it is subject to Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR, Part 77) which sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure height greater than approximately 55 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.

Although the FAA does not have the authority to approve or deny a proposed off-airport land use, the City's General Plan requires all projects to be in conformance with FAA height determinations.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The project site is located within the Airport Influence Area, as defined by the Airport's Comprehensive Land Use Plan (CLUP), adopted by the Santa Clara County Airport Land Use Commission (ALUC) on May 25, 2011.[20] The CLUP includes land use compatibility policies and standards, which form the basis for evaluating the land use compatibility of individual projects with the Airport and its operations.

Standards in the CLUP focus on the three areas of ALUC responsibility: 1) aircraft noise, 2) the safety of persons on the ground and in aircraft, and 3) the control of objects in navigable airspace. The project site is located just outside the projected 65 dB CNEL aircraft noise contour[21] and the project site is outside of the identified airport safety zones in the CLUP.

Although the project does not require referral to the ALUC for review, City General Plan policies require project consistency with the height, safety, and noise policies of the CLUP, including the requirement for property owner dedication of an "avigation easement" to the City accepting height restrictions and aircraft noise conditions.

[20] Walter B. Windus, PE. Aviation Consultant. *Cmprehensive Land Use Plan: Norman Y. Mineta San Jose International Airport.* May 2011. Available at: http://www.sccgov.org/sites/planning/PlansPrograms/ALUC/Documents/ALUC_20110525_SJC_CLUP.pdf. Accessed February 9, 2015.

[21] Properties within the 65 dB CNEL aircraft noise contour are subject to noise impacts from aircraft flyovers; residential and public educational facilities located within the 65 dB CNEL noise contour would require design and insulation measures to reduce interior noise levels to a less than significant level.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

Subsequent to the certification of the Downtown Strategy FEIR and 2040 General Plan FEIR, the Santa Clara Valley/Natural Community Conservation Plan (Habitat Plan) was adopted. The Habitat Plan is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. As discussed in *Section 4.4 Biological Resources*, the project site is located in an area designated as *Urban-Suburban* in the Habitat Plan.

Envision San José 2040 General Plan

Providing denser development within the Downtown is consistent with the Major Strategies of the 2040 General Plan, specifically: the Focused Growth Strategy, which aims to focus growth into growth areas (including Downtown), and the Fiscally Strong City Strategy, which focuses new growth in developed areas where existing infrastructure is already available.

The following 2040 General Plan policies are specific to land use and are applicable to the proposed project.

Envision San José 2040 Relevant Land Use Policies

Policies	Description
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.

Policy CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
Policy CD-3.4	Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize impacts of parking upon a vibrant pedestrian and transit-oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
Policy TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

San José Downtown Strategy 2000

The Downtown Strategy was developed as a guide for policy and development in the Greater Downtown area. It provides specific recommendations for land use, development types, and the amount of development based on environmental and community needs. The Downtown Strategy supports a variety of community goals, including but not limited to: developing retail in the Greater Downtown area, develop more housing with an emphasis on affordable housing, and investing in streetscape improvements to improve the walkability and comfort of Greater Downtown streets. The amount of future development anticipated to occur in the expanded Greater Downtown Core Area includes:

- 8,000,000 to 10,000,000 sf of office space
- 8,000 to 10,000 residential dwelling units
- 900,000 to 1,200,000 sf of retail space; and
- 2,000 to 2,500 guest rooms of hotel space, in four to five hotel projects

The project site is located within the San Pedro Square area. The Downtown Strategy identifies the following strategies and actions for the San Pedro Square area that are applicable to the project and/or project site:

- Create a continuous frontage of retail on the street by filling in the remaining parcels.
- Install adequate lighting on the street and the facades to make the area safe, comfortable and attractive at night.

4.10.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Physically divide an established community?	☐	☐	☐	☒	☐	2,3,4,5 6
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐	2,3,4,5 6
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐	☒	12

4.10.3 Land Use Impacts

4.10.3.1 *Impacts to an Established Community*

The project site is located Downtown, and surrounded by a variety of development ranging from one-story buildings to high-rise towers and a mix of residential, commercial, entertainment, and office uses. The project proposes an eight-story mid-rise building with commercial/retail uses on the ground floor and residential uses on the upper floors. While the Downtown Strategy proposes construction of a gathering plaza on the project site, a plaza has already been constructed 300 feet

north of the site on St. John Street. Dependent on the establishment of reciprocal agreements with property owners adjacent to the south side of the site, the project proposes a paseo, and enhancement of existing courtyards and patios consistent with the overall vision for the San Pedro Square area. The project proposes uses and density consistent with the surrounding development and what is envisioned for the project area in the 2040 General Plan and Downtown Strategy. The project would not introduce a new or incompatible use to the area.

The project includes design features to integrate the project with the surrounding neighborhood and existing development. The project proposes ground floor retail/commercial adjacent to N. San Pedro Street and N. Almaden Avenue, consistent with adjacent retail/commercial development to the north and south. The project would increase pedestrian connectivity in the area by providing a paseo along the southern side of the proposed building. The paseo would connect the sidewalk on N. San Pedro Street to the sidewalk on N. Almaden Avenue. The project proposes a variety of lighting techniques along the paseo consistent with the Downtown Strategy goal to "make the area safe, comfortable and attractive at night." The paseo would include gates to adjacent courtyards and patios serving adjacent restaurants. The project would accommodate and facilitate pedestrian activity consistent with General Plan policy CD-2.3.

The layout and design of the project does not include any features that would physically divide an established community (e.g., blocking of roadways or sidewalks). **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.3.2 *Consistency with Applicable Plans, Policies, or Regulations*

Consistency with the General Plan Land Use Designation and Zoning

The project site is designated *Downtown* in the City of San José General Plan and is zoned *DC – Downtown Primary Commercial*. The project site has a General Plan land use designation of *Downtown*, which allows for residential and commercial development at high intensities. The project proposes to develop an eight-story residential building with 201 dwelling units and 11,969 sf of ground floor commercial/retail on a 0.98-acre project site. The proposed project would have a residential density of approximately 201 dwelling units per acre.

Implementation of the project would result in the redevelopment of an underutilized site with high-density, mixed-use development that would place multi-family residential development in proximity to transit and increase retail space within the Downtown Core. As described below, the building would obtain a 'no hazard' determination by the FAA. As designed, the building conforms to the design parameters outlined in the zoning code. The project as proposed is consistent with the General Plan and zoning land use designations. **[Same Impact as Approved Project (No Impact)]**

Habitat Conservation Plan

At the time the Downtown Strategy FEIR and the 2040 General Plan FEIR were certified, the Habitat Plan was not yet adopted and nitrogen deposition was considered a significant unavoidable impact in the 2040 General Plan. The Habitat Plan has since been adopted. Traffic trips resulting in nitrogen deposition are covered under the Habitat Plan, and the Habitat Plan takes small projects into account,

including the proposed project. As described in *Section 4.4 Biological Resources,* the proposed project would not conflict with the Habitat Plan and is not subject to fees. Because the project is covered by the Habitat Plan, the project would contribute to an impact that is less than identified in the 2040 General Plan. **(Less Impact than Approved Project)**

San José Downtown Strategy 2000

Construction of the proposed project would intensify the project site's usage and would support the Downtown Strategy's goals of redeveloping underutilized properties. The proposed residential and commercial uses are consistent with the land uses and growth envisioned in the Downtown Strategy. The project would create a continuous frontage of retail on the street by filling in property currently used as a parking lot and by incorporating ground-floor retail. While the project would not construct the gathering plaza envisioned for the site in the Downtown Strategy, a plaza was constructed in 2010, 300 feet north of the site at the St. John and N. San Pedro Street intersection. Dependent on the establishment of reciprocal agreements, the project proposes a paseo and enhancement of existing courtyards and patios on properties adjacent to the south of the site, which is consistent with the overall vision for the San Pedro Square area. The paseo would be emphasized using landscape elements, lighting fixtures, paving patterns, and public seating with active uses around it. The project proposes a lighting plan to make the area safe, comfortable and attractive at night. The project is consistent with the Downtown Strategy goals for the site and the general project area. **[Same Impact as Approved Project (No Impact)]**

San Jose International Airport Comprehensive Plan

The proposed project is consistent with CLUP policies. The project site is not located within a designated CLUP safety zone. Although the site appears to be on the edge of the CLUP's projected 65 CNEL noise contour, the City's latest aircraft noise projections show the site to be located outside of the 65 CNEL contour. The project is required to obtain an FAA no-hazard determination for the proposed building height and to dedicate an avigation easement to the City accepting height restrictions as well as aircraft noise conditions.

Consistent with the Downtown Strategy and 2040 General Plan FEIRs, the proposed project would comply with General Plan policies and FAA development restrictions; therefore, the proposed project will have a less than significant impact on airport operations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.3.3 *Shade and Shadow Impacts*

According to the Downtown Strategy FEIR, a project in the Greater Downtown area would have a significant shade and shadow impact if it would result in a 10 percent or greater increase in the shadow cast onto St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, or McEnery Park, or substantially increase shadows at other public open space areas (excluding streets and sidewalks).

The proposed project is not located near the aforementioned public spaces or any other public open space. Therefore, shadows cast as a result of the proposed building would have no significant shade and shadow impacts. **[Same Impact as Approved Project (No Impact)]**

4.10.4 Conclusion

The proposed project would not result in new or more significant land use impacts than disclosed in the certified Downtown Strategy FEIR or 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.11 MINERAL RESOURCES

4.11.1 Setting

According to the 2040 General Plan FEIR, the area of Communications Hill in central San José is designated as containing mineral deposits of regional significance by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975. Communications Hill is the only area in the City with this designation. The project site is not located on or near Communications Hill and, therefore, does not contain known mineral resources

4.11.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	☐	3
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	☐	3

4.11.3 Mineral Resources Impacts

As discussed above, the project site is not located in an area containing known mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.11.4 Conclusion

The project would not result in the loss of availability of known mineral resources and would not result in new or more significant mineral impacts than identified in the certified Downtown Strategy FEIR or 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12 NOISE

4.12.1 Setting

4.12.1.1 *Overview*

Fundamentals of Noise

Noise may be defined as unwanted sound. Noise is usually objectionable because it is disturbing or annoying. The objectionable nature of sound can be caused by its pitch or its loudness. A decibel (dB) is a unit of measurement which indicates the relative amplitude of a sound. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Noise is typically expressed using one of several noise averaging methods, including: L_{eq}, L_{max}, DNL, and CNEL. L_{eq} stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time. The most common averaging period is hourly but L_{eq} can describe any series of noise events in arbitrary duration. L_{max} is the maximum A-weighted noise level during a measurement period. DNL and CNEL are described below.

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than daytime levels. Most household noise also decreases at night, making exterior noises more noticeable. Furthermore, most people sleep at night and are very sensitive to noise intrusion. To account for human sensitivity to nighttime noise levels, a descriptor, DNL (day/night average sound level), was developed. The DNL divides the 24-hour day into the daytime of 7:00 AM to 10:00 PM and the nighttime of 10:00 PM to 7:00 AM. The nighttime noise level is weighted to 10 dB higher than the daytime noise level. The Community Noise Equivalent Level (CNEL) is another 24-hour average which includes both an evening and nighttime weighting.

Fundamentals of Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. This discussion uses Peak Particle Velocity (PPV) to quantify vibration amplitude, which is defined as the maximum instantaneous positive or negative peak of the vibration wave. A PPV descriptor with units of millimeters per second (mm/sec) or inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. The two primary concerns with construction-induced vibration are the potential to damage a structure and the potential to interfere with the enjoyment of life; these two concerns are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels such as people in an urban environment may tolerate a higher vibration level.

Structural damage can be classified as cosmetic (e.g., minor cracking of building elements), or may threaten the integrity of the building. Safe vibration limits used to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structural damage to a building. Construction-induced vibration that can be detrimental to the building is very rare and has only been observed in instances where the structure is at a high state of disrepair and the construction activity occurs immediately adjacent to the structure.

4.12.1.2 *Existing Noise Conditions*

Downtown San Jose is a high-density urban area, and is inherently loud. The existing noise environment in Downtown San Jose includes vehicular traffic on local streets and highways, aircraft approaching or departing from Norman Y. Mineta San José International Airport, rail noise, and noise from general activity on local streets including people attending bars, nightclubs, gatherings on outdoor patios, special events, etc. Noise monitoring completed for the Downtown Strategy 2000 found average ambient noise levels in the Downtown area generally ranging from 63 to 68 dBA DNL.

Certain areas of Downtown San Jose are louder than others. The project site is in an area where the existing noise conditions have been well documented in recently completed noise monitoring surveys. Noise monitoring completed for the Post and San Pedro Tower Project, located approximately 500 feet south of the project site, found average ambient noise levels ranging from 65 dBA DNL (without current construction activities) to 72 dBA DNL. Noise in the vicinity of the Post and San Pedro Tower Project included noise from vehicles on local roadways and aircraft, night clubs, and operation of a Greyhound Bus Station.[22] Noise monitoring completed for the One South Market Street Residential Project, located approximately 350 feet southeast of the project site, found average ambient noise levels ranging from 65 dBA DNL to 72 dBA DNL. Noise in the vicinity of the One South Market Street Residential Project included noise primarily from vehicles on local roadways and aircraft.[23] Noise monitoring completed for the St. James Towers Residential Project, located approximately 475 feet northwest of the project site, found average ambient noise levels ranging from 69 dBA DNL to 71 dBA DNL. Noise in the vicinity of the St. James Towers Residential Project included noise primarily from vehicles on local roadways and Highway 87 and from aircraft.[24]

The project site is located in an area of Downtown San Jose that is affected by noise from vehicles on local roadways and, to a lesser extent, Highway 87. Existing commercial/retail uses on N. San Pedro Street and N. Almaden Avenue include bars and outdoor patio areas. Based on the City's latest available information, the project site is located outside the Airport's current and projected 65 CNEL noise contour. Recent noise studies completed near the project site for similar Downtown projects (as described above) have found existing average ambient noise levels in the general project area ranging from 65 dBA DNL to 72 dBA DNL.

[22] City of San Jose. *Post & San Pedro Tower Project Initial Study/Addendum (File No. H14-023).* September 2014.
[23] City of San Jose. *One South Market Street Residential Project Initial Study (File No. H12-022).* December 2012.
[24] City of San Jose. *St. James Towers Residential Project (SCH No. 2013112021).* December 2013.

4.12.1.3 *Sensitive Receptors*

The closest sensitive receptors to the project site are located in the residential apartments approximately 65 feet south of the project site, above the street-level businesses along W. Santa Clara Street, between N. Almaden Avenue and N. San Pedro Street. Additional sensitive receptors would be located within 500 feet of the project site in the future residential high rises (existing and under construction) to the north, west, and south.

4.12.1.4 *Applicable Plans, Policies, and Regulations*

2014 State Building Code, Title 24, Part 2

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dB DNL or CNEL in any habitable room.

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 4.12-1.

Envision San José 2040 Relevant Noise and Vibration Policies

Policies	Description
Policy ES-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 4.12-1 in this Initial Study) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to uses through noise standards in the City's Municipal Code.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 am to 7:00 pm Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.[25]

[25] The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

The Zoning Ordinance limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 am to 7:00 pm, Monday through Friday.

Table 4.12-1: General Plan Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

Notes: [1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

4.12.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐	2,6

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐	2,13
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	2,4
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1,2
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	2,4
6. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1

4.12.3 Noise Impacts

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

4.12.3.1 *Noise Impacts to the Project*

Interior Use Areas

Residents of the proposed building would be exposed to ambient noise levels influenced primarily by transportation noise sources including automobile traffic, aircraft flyovers, and operation of existing commercial and retail uses on N. San Pedro Street and N. Almaden Avenue (including bars and restaurants with outdoor patios). Based on the 2040 General Plan, noise levels in the Downtown area currently range from 62 to 75 dBA DNL. This is generally confirmed by recent noise studies in the project area, as previously described. Based on estimated future traffic volumes associated with planned growth and redevelopment in the downtown area, traffic noise levels are anticipated to increase by zero to one dBA DNL. The project site is located outside the Airport's current and projected 65 CNEL noise contour.

Existing and future noise levels at the project site are above the "normally acceptable" limit of 60 dBA but within the "conditionally acceptable" range for residential land uses. Existing and future noise levels would be compatible with the proposed ground floor retail and outdoor paseo/plaza uses. Existing residential uses in the project area are currently affected by noise related to commercial and restaurant uses on N. San Pedro Street, N. Almaden Avenue, and by noise related to the existing patio areas located behind the restaurants along W. Santa Clara Street and in San Pedro Square. Future residents of the project site would be exposed to similar sources of noise.

Where exterior noise levels are below 65 dBA, interior noise levels of 45 dBA can be achieved with standard construction techniques. Up to 70 dBA, interior noise standards can be met with standard construction techniques and the inclusion of a forced air mechanical ventilation system. Residential units in areas with exterior noise levels greater than 70 dBA could be exposed to interior noise levels above 45 dBA. Recent noise studies completed near the project site for similar Downtown projects (as described above in Section 4.12.1.2) have found existing average ambient noise levels in the project area ranging from 65 dBA DNL to 72 dBA DNL.

Impact NOI-1 The project would place residential development in an area subject to noise from traffic, aircraft, and noise on San Pedro Street at levels that exceed standards for interior spaces for residential development. **(Significant Impact)**

Mitigation Measure: Consistent with mitigation in the certified Downtown Strategy FEIR and policies in the 2040 General Plan, the project shall implement the following measure to reduce interior noise impacts to a less than significant level.

MM NOI-1 A qualified acoustical consultant shall review final site plans, building elevations, and floor plans prior to construction to calculate expected interior noise levels as required by City policies and State noise regulations. Project-specific acoustical analyses are required by the California Building Code to confirm that the design results in interior noise levels of 45 dBA or lower. The specific determination of what noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking,

protected ventilation openings, etc.) are necessary will be conducted on a unit by unit basis. Results of the analysis, including the description of the necessary noise control treatment, will be submitted to the City along with the building plans, and approved prior to issuance of any building permits. **(Same Impact as Approved Project [Less Than Significant Impact with Mitigation])**

Outdoor Use Areas

As proposed, the project would have a third floor community terrace and private patio areas. Pursuant to General Plan policy EC-1.1 private balconies in multi-family buildings are excluded from the City's noise standards and will not be discussed further.

Based on available data, the common exterior use areas on the project site could be exposed to noise levels in excess of 60 dBA DNL. While noise on the project site is due, in part, to aircraft flyovers, policy EC-1.1 only requires noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Impact NOI-2 Residents of the proposed building using the third-floor community terrace could be exposed to ambient noise levels that exceed standards for exterior spaces associated with residential development. **(Significant Impact)**

Mitigation Measure: Consistent with mitigation in the certified Downtown Strategy FEIR and policies in the 2040 General Plan, the project shall implement the following measure to reduce exterior noise impacts to a less than significant level.

MM NOI-2 Outdoor areas shall be shielded with buildings and parapet walls or other noise attenuation features/structures. A qualified acoustical consultant shall review final site plans to calculate expected exterior noise levels at the third-floor terrace, to confirm that noise would be within acceptable levels as required by City policies. Results of the analysis, including the description of the necessary noise control treatment, will be submitted to the City along with the building plans, and approved prior to issuance of any building permits. **(Same Impact as Approved Project [Less Than Significant Impact with Mitigation])**

4.12.3.2 *Noise Impacts from the Project*

Project Generated Traffic Noise Impacts

Based on estimated future traffic volumes associated with planned growth and redevelopment in the downtown area, traffic noise levels are anticipated to increase by zero to one dBA DNL. The proposed project is consistent with the planned growth in the Downtown area and would not increase traffic noise above that already anticipated. Typically, in high noise environments, if the project would cause ambient noise levels to increase by more than three dBA at noise-sensitive receptors, the impact is considered significant. Traffic typically has to double on a roadway in order to result in a

noticeable 3 dBA noise level increase. Since the project is relatively small compared to other development in the Downtown area and would not double traffic on local roadways, the project would not cause an increase in noise levels in the project area of three decibels or more. The project would have a less than significant long-term noise impact from traffic on the nearby residential land uses.

The project would not result in any new or more significant traffic noise impacts than identified in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise Impacts

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during demolition and the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 dB measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction generated noise levels drop off at a rate of about six dB per doubling of distance between the source and receptor.

The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible at nearby residential buildings. The General Plan FEIR concluded that short-term construction noise could be mitigated by identified General Plan policies.

Impact NOI-3 Construction of the proposed project would temporarily increase noise levels in the vicinity of the project site and would be audible at nearby residential buildings at levels that could exceed standards for residential development. **(Significant Impact)**

Mitigation Measure: Consistent with mitigation in the certified Downtown Strategy FEIR and policies in the 2040 General Plan, the project shall implement the following measure to reduce temporary construction noise impacts to a less than significant level.

MM NOI-3 During all phases of construction activities, the project shall include implementation of the following measures, which shall be included in all approved plans for demolition, grading, and building permits.

- Demolition and construction activities on- or off-site, within 500 feet of sensitive receptors, such as residential development, shall be restricted to the hours of 7 AM to 7 PM Monday through Friday, non-holidays only.
- Staging areas and construction material areas shall be located as far away as possible from adjacent land uses.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.
- All unnecessary idling of internal combustion engines is prohibited.

- All stationary, noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and businesses.
- The Director of Planning and residential neighborhoods proximately located to the project site shall be notified in writing by the developer of the construction schedule at least seven days prior to the start of construction.
- A noise disturbance coordinator shall be designated who is responsible for responding to complaints about construction noise. The telephone number of the disturbance coordinator shall be posted in a conspicuous place at the construction site and shall also be included in the notice sent to neighbors and the Director of Planning regarding the schedule.
- In the event that pile driving is proposed, nearby residents will be notified of the schedule for its use. Portable acoustical barriers or other measures will be installed around pile driving equipment.

[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]

Construction Vibration Impacts

The effects of vibration on surrounding buildings during construction is addressed in Section 4.5.3.2 *Cultural Resources*.

4.12.4 Conclusion

Implementation of the project in conformance with General Plan policies will reduce noise impacts to existing sensitive land uses and future residents, and reduce temporary construction noise impacts associated with the proposed project to a less than significant level. The project would not result in any new or more significant noise impacts than identified in the Downtown Strategy FEIR or the 2040 General Plan FEIR. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation)]**

4.13 POPULATION AND HOUSING

4.13.1 Setting

Based on information from the Department of Finance, the City of San José population was estimated to be approximately 1,000,535 in January 2014[26] and had an estimated total of 319,625[27] housing units. The Association of Bay Area Governments (ABAG) projects that there will be approximately 409,800 households in the City by 2035.[28] The average number of persons per household in San José for the period of 2008-2012 was estimated at 3.1.[29]

4.13.2 *Applicable Plans, Policies, or Regulations*

Envision San José 2040 General Plan

To meet the current and projected housing needs in the City, the General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2035. Through policies and actions that address orderly growth within the City, buildout of the General Plan is projected to help balance the ratio of local jobs with available housing within the City.

4.13.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐	1,2,4
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1,2,4

[26] State of California, Department of Finance. E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2013 and 2014. May 2014. Available at: <http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php>. Accessed November 14, 2014.
[27] City of San Jose. Department of Planning, Building & Code Enforcement, Planning Division. *Fact Sheet: Housing.* 2014. Available at: <https://www.sanjoseca.gov/DocumentCenter/View/780>. Accessed November 2014.
[28] Association of Bay Area Governments. *Projections and Priorities 2013*. December 2013.
[29] U.S. Census Bureau. *State and County QuickFacts. San Jose (City)*. Available at: <http://quickfacts.census.gov/qfd/states/06/0668000.html>. Accessed November 14, 2014.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1,2,4

4.13.3 Impacts to Population and Housing

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The 2040 General Plan FEIR concluded that the potential for direct growth-inducing impacts from buildout of the General Plan is minimal because growth planned and proposed as part of the General Plan would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area.

The project proposes to develop up to 201 residential dwelling units and 11,969 sf of commercial/retail space. The proposed project would provide housing for approximately 623 residents and would create new employment opportunities. As discussed in *Section 4.10 Land Use*, the proposed development is consistent with the project site's General Plan land use designation and, therefore, would not add growth beyond what is anticipated from buildout of the General Plan. The project is also consistent with General Plan and Downtown Strategy goals for focused and sustainable growth because it proposes the intensification of underutilized land in an urbanized area that is currently served by existing roads, transit, utilities, and public services.

For these reasons, the proposed development would not result in a significant impact on population or housing. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Housing Displacement Impacts

The project site is currently developed with a parking lot and a commercial/retail building. Redevelopment of the site with the proposed project would not displace residents or housing. **[Same Impact as Approved Project (No Impact)]**

4.13.4 Conclusion

The project would not result in new or more significant impacts than identified in the Downtown Strategy FEIR or 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 *Fire and Police Protection Services*

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. The closest station to the project site is Station No. 1, located at 225 North Market Street, approximately 0.20 miles north of the project site.

Police protection services for the project site are provided by the San José Police Department (SJPD), headquartered at 201 West Mission Street approximately 1.10 miles northwest of the project site. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

4.14.1.2 *Schools*

The project site is located in the San José Unified School District (SJUSD). Students in the project area attend Horace Mann Elementary School, Hoover Middle School, and Lincoln High School.[30]

4.14.1.3 *Parks*

Residents of San José are served by regional and community park facilities, including regional open space, community and neighborhood parks, playing fields and trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. Nearby City park facilities include Saint James Park, 0.20 miles northeast of the project site, and Plaza de Cesar Chavez, 0.25 miles south of the project site. The Guadalupe River Park and Trail and associated recreational areas are approximately 0.30 miles west of the project site.

4.14.1.4 *Libraries*

The San José Public Library System consists of one main library (Dr. Martin Luther King Jr., jointly operated with San José State University) and 22 branch libraries. The closest library to the project site is the Dr. Martin Luther King Jr. Main Library, located approximately 0.45 miles east of the site.

[30] San José Unified School District. *Boundary Maps*. Last modified March 27, 2014. Available at: http://www.schvision.com/schoolfinder2/SJUSD/maps.asp. Accessed: February 2, 2014.

4.14.1.5 *Applicable Plans, Policies, and Regulations*

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to public services and are applicable to the proposed project.

Envision San José 2040 Relevant Public Service Policies

Policies	Description
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space, or recreational school grounds open to the public after normal school hours or include one or more of these elements in the project design.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) (Municipal Code Chapter 14.25) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and/or PIO. The acreage of parkland required is based upon the current schedule of Fees (Resolution 77153) and the Acreage Dedication Formula outlined in the PDO and PIO.[31]

4.14.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
Fire Protection?	☐	☐	☐	☒	☐	2,6
Police Protection?	☐	☐	☐	☒	☐	2,6
Schools?	☐	☐	☐	☒	☐	2,6
Parks?	☐	☐	☐	☒	☐	2,6
Other Public Facilities?	☐	☐	☐	☒	☐	2,6

4.14.3 Public Services Impacts

4.14.3.1 *Fire Protection Services*

The General Plan FEIR concluded that planned growth under the General Plan would increase calls for fire protection services in the City. The higher density development envisioned in the General Plan may require additional staffing and equipment to adequately serve the larger population but no new stations would be required other than those already planned. In addition, the proposed project is consistent with planned growth for the City in the Downtown Strategy. The Downtown Strategy FEIR concluded that while the growth proposed in the Downtown area of San José would result in an

[31] Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household).

increase in demand for fire services, the increased population would not result in demand for services beyond the capabilities of the department.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is, however, only a small fraction of the total growth identified in the General Plan and Downtown Strategy. The proposed project, by itself, would not preclude the SJFD from meeting its service goals. The proposed project could be adequately served by existing resources. No additional fire personnel or equipment would be required.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan to avoid unsafe building conditions and promote public safety. The proposed development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the proposed development. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3.2 *Police Protection Services*

The General Plan FEIR concluded that planned growth under the General Plan would increase the population of the City which would require an increase in police services. While the overall service area would not increase, additional police officers and equipment would be needed to serve the larger population. The increase in police personnel required for General Plan buildout may require the expansion of existing police facilities.

The proposed project is consistent with planned growth for the City in the Downtown Strategy. The Downtown Strategy FEIR concluded that while the growth proposed in the downtown area of San José would result in an increase in demand for police services, the increased population would not result in demand for services beyond the capabilities of the department.

The proposed development of the project site is accounted for in the planned growth for the City and Downtown. The project is only a small fraction of the total growth identified in the General Plan and Downtown Strategy. The project, by itself, would not preclude the SJPD from meeting its service goals. As a result, all future development proposed on-site could be adequately served by existing resources. No additional police personnel or equipment or expanded facilities would be required.

The project would be constructed in accordance with current building codes and would be maintained in accordance with applicable City policies to promote public and property safety. The project would not require new police stations to be constructed or existing police stations to be expanded to serve the development. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3.3 *Schools*

Buildout of the San José General Plan will generate approximately 11,079 new students in the SJUSD. The Downtown Strategy estimated a maximum of 5,000 new K-12 students. The project is part of the planned growth in the City and would not increase students in the SJUSD beyond what

was anticipated in the General Plan and Downtown Strategy. The project would be required to pay school impact fees pursuant to Government Code Section 65996.

While the project would increase the number of students attending local schools, the General Plan EIR concluded that implementation of applicable General Plan policies and programs and payment of impact fees would reduce impacts to local schools to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3.4 *Parks*

Implementation of the Downtown Strategy creates the potential for up to 10,000 additional dwelling units in the downtown area, which would result in a 87.5-acre deficiency of parkland under the City's PDO. The Downtown Strategy FEIR concluded that the City's PDO/PIO would be satisfied through a combination of several means including: dedication of parkland; payment of in-lieu or mitigation fees (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities.

The General Plan EIR concluded that construction and/or expansion of parks throughout the City in compliance with General Plan policies and regulations would reduce physical impacts from development on existing parkland facilities to a less than significant level. Because the proposed 201 dwelling units have been accounted for in the Downtown Strategy and the project would comply with the PDO requirements, the project would not adversely impact park facilities in San José. In addition, the project proposes an on-site community terrace and public paseo that would be available to future residents for passive recreational use. These spaces are anticipated to help offset some of the demand on existing park and recreational facilities as urban open space and private recreational amenities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3.5 *Libraries*

When the Downtown Strategy FEIR was prepared, there were not enough library facilities to serve planned growth, however, a bond had been approved that would construct six new branch libraries. The 2040 General Plan FEIR concluded that existing and planned library facilities in the City would provide approximately 0.68 sf of library space per capita for anticipated population growth under buildout of the General Plan by the year 2035, which is above the City's General Plan service goal of 0.59 sf of library space per capita (General Plan Policy ES-2.2).

The project would generate approximately 623 new residents, who would incrementally increase the demand on neighborhood libraries; primarily the Martin Luther King Jr. Main Library. The population growth resulting from the project is anticipated in the General Plan and, therefore, the project would not require new or expanded library facilities beyond what is already planned in the City or result in new or more significant impacts to library facilities than disclosed in the 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.4 Conclusion

The project would not have any new or more significant impacts on public services in San José than previously identified in the Downtown Strategy 2000 FEIR and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15 RECREATION

4.15.1 Setting

The City of San José owns and maintains approximately 3,491 acres of parkland, including neighborhood parks, community parks, and regional parks. The City also has 12 community center hubs, and 42 neighborhood reuse centers. Other recreational facilities include seven public skate parks, five swimming pools, joint use facilities, and over 55 miles of trails.

As discussed in *Section 4.14 Public Services,* nearby City park facilities include Saint James Park, 0.20 miles northeast of the project site, and Plaza de Cesar Chavez, 0.25 miles south of the project site. The Guadalupe River Park and Trail and associated recreational areas are approximately 0.30 miles west of the project site.

Grace Community Center is approximately 0.8 miles east of the project site, Northside Community Center is approximately 0.90 miles north of the project site, and Washington Community Center is approximately 1.3 miles south of the project site.

4.15.1.1 *Applicable Plans, Policies, and Regulations*

Envision San José 2040 General Plan Policies

The following 2040 General Plan policies are specific to recreational resources and are applicable to the proposed project.

Envision San José 2040 Relevant Recreation Policies

Policy	Description
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (Such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
Policy PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space, or recreational school grounds open to the public after normal school hours or include one or more of these elements in the project design.

Parkland Dedication Ordinance/Park Impact Ordinance

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) (Municipal Code Chapter 14.25) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO. The acreage of parkland required is based upon the current schedule of Fees (Resolution 77153) and the Acreage Dedication Formula outlined in the PDO and PIO.[32]

4.15.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒	☐	2,4
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐	2,4

4.15.3 Recreational Facilities Impacts

Future residents of the project site would incrementally increase the demand and use of existing recreational facilities, including local parks and trails. As discussed in *Section 4.14 Public Services,* the project is subject to the PDO/PIO and is required to dedicate parkland and/or pay in-lieu fees to offset the demand on parkland created by the project's future residents. Consistent with the conclusions in the 2040 General Plan FEIR and the Downtown Strategy FEIR, it is not anticipated that the project's incremental increase in demand for recreational facilities would result in the substantial deterioration of existing facilities or require new or expanded facilities on-site provided that the project would fully conform with the PDO/PIO and applicable General Plan policies.

In addition, the project includes an on-site community terrace for tenants and guests, which would likely offset some of the project's demand on existing recreational facilities in the area. The environmental impacts associated with the construction of these common open spaces are discussed throughout this Initial Study and are found to have a less than significant impact.

[32] Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household).

The project would not result in a new or more significant impact to recreational facilities than disclosed in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15.4 Conclusion

The project would not have any new or more significant impacts on recreational facilities than identified in the Downtown Strategy FEIR and 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16 TRANSPORTATION

The following discussion is based in part on a Traffic Operations Analysis prepared by *Hexagon Transportation Consultants* in April 2015. A copy of this report is attached as Appendix I.

4.16.1 Setting

4.16.1.1 *Background Information*

The City certified the Downtown Strategy FEIR in June 2005, which included a comprehensive traffic analysis that identified existing conditions (including conditions anticipated to occur with the implementation of identified roadway improvements already planned and approved in the area). There have not been any substantial modifications to the area transportation facilities since certification of the Downtown Strategy FEIR.

4.16.1.2 *Existing Conditions*

Roadway Network

Regional Access

SR 87 is primarily a six-lane freeway (four mixed-flow lanes and two HOV lanes) that is aligned in a north-south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with US 101. SR 87 provides access to US 101 and I-280/I-680. Access to the site to and from SR 87 is provided via interchanges at Julian Street, St. James Street, and Santa Clara Street.

Local Access

N. Market Street is a north-south, four-lane street that provides access to and from the site via W. St. John Street and W. Santa Clara Street. Market Street turns into Coleman Avenue to the north and First Street to the south.

N. San Pedro Street is a north-south two-lane street that serves as the eastern boundary of the project site. It begins at Bassett Street and extends south to where it terminates at San Fernando Street.

N. Almaden Avenue is a short north-south two-lane street that serves as the western boundary of the project site. N. of Almaden Avenue extends between W. St. John Street and San Fernando Street.

W. St. John Street is an east-west two-lane street that extends between N. Almaden Boulevard and N. Eighteenth Street. W. St. John Street provides access to the site via Almaden Avenue.

W. Santa Clara Street is an east-west, four-lane street located south of the project site. W. Santa Clara Street provides access to and from the site via Almaden Avenue.

Pedestrian and Bicycle Facilities

Pedestrian facilities in the study area consist mostly of sidewalks along all of the surrounding streets. Crosswalks are located at all of the intersections in the area, and all signalized intersections in the area include pedestrian signal heads. Overall the existing sidewalks have good connectivity and provide pedestrians with safe routes to the surrounding land uses in the area. In addition, Bike Share and Zip Car locations are provided throughout the Downtown area. The nearest bike share and Zip car locations are located just north of the project site, within walking distance, at the intersections of N. San Pedro Street and St. John Street, and Market Street and St. John Street, respectively.

The Guadalupe River multi-use trail system runs through the City of San Jose along the Guadalupe River and is shared between pedestrians and bicyclists and separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile continuous Class I bikeway from Curtner Avenue in the south to Alviso in the north. This trail system can be accessed via W. St. James Street and W. St John Street just ¼ mile west of the project site.

None of the roadways in the immediate vicinity of the project site contain Class II bicycle facilities (striped bike lanes). However, within the broader study area, the following roadways contain bike lanes:

- Coleman Avenue, west of SR 87
- N. Almaden Boulevard, south of W. St. John Street
- San Fernando Street, between Bird Avenue and Tenth Street
- Third Street, between Jackson Street and I-280
- Santa Clara Street, between Stockton Avenue and SR 87

The City of San Jose has developed a public Bike Share system that allows users to rent and return bicycles at various popular locations. A bike share station currently exists on N. San Pedro Street at W. St. John Street.

Transit Service

Existing transit services to the project area are provided by the Santa Clara Valley Transportation Agency (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak. These services are described below.

Santa Clara Valley Transportation Agency

The downtown area is served by many local bus lines operated by the VTA. The bus lines that operate within ¼ mile walking distance of the project site are listed in Table 4.16-1, including their route description and commute hour headways. The VTA also provides a shuttle service within the Downtown area. The Downtown Area Shuttle (DASH) provides shuttle service from the San Jose Diridon Caltrain station to San Jose State University, and the Paseo De San Antonio and Convention Center LRT stations via San Fernando and San Carlos Streets.

Table 4.16-1: Existing VTA Bus Service near the Project Site

Bus Route	Route Description	Headway (min.)
Local Route 22	Palo Alto Transit Center to Eastridge Transit Center	12
Local Route 66	Kaiser San José Medical Center to Dixon Landing Road (Milpitas)	15
Local Route 68	Gilroy Transit Center to San José Diridon Station	15-20
Local Route 72	Senter / Monterey to Downtown San José	15
Local Route 73	Snell / Capitol to Downtown San José	15
Local Route 82	Westgate to Downtown San José	30
Express Route 168	Gilroy Transit Center to San José Diridon Station	30
Express Route 181	Fremont BART Station to San José Diridon Station	15
Ltd Stop Route 304	Santa Teresa LRT Station to Sunnyvale Transit Center	30
Ltd Stop Route 323	Downtown San José to De Anza College	15
Rapid 522	Palo Alto Transit Center to Eastridge Transit Center	15
Hwy 17 Express	Downtown Santa Cruz/Scotts Valley to Downtown San José	10-30

Note: Headways are the approximate intervals between buses based on peak commute periods.

Light Rail Transit (LRT) Service

The VTA operates the 42.2-mile VTA light rail line system extending from south San Jose through downtown to the northern areas of San Jose, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The service operates nearly 24-hours a day with 15-minute headways during much of the day.

The Mountain View–Winchester and Alum Rock–Santa Teresa LRT lines operate within walking distance of the project site. The Santa Clara LRT station is located approximately ¼ mile east of the project site. The San Jose Diridon station is located along the Mountain View–Winchester LRT line and is served by Caltrain, ACE, and Amtrak.

Caltrain

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on an average weekday. The project site is located approximately ¾ mile from the San Jose Diridon station. The Diridon station provides 581 parking spaces, as well as 18 bike racks and 48 bike lockers. Trains stop frequently at the Diridon station between 4:30 AM and 10:30 PM in the northbound direction, and between 6:28 AM and 1:34 AM in the southbound direction. Caltrain provides passenger train service seven days a week, and extended service to Morgan Hill and Gilroy during commute hours.

Altamont Commuter Express

The Altamont Commuter Express (ACE) provides commuter passenger train service across the Altamont between Stockton and San Jose during the weekdays. ACE stops at the San Jose Diridon station four times during both the morning and evening commute hours.

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San Jose, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San Jose Diridon station eight times during the weekdays between approximately 7:38 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon station seven times during the weekdays between 6:40 AM and 7:15 PM.

The Coast Starlight trains provide daily passenger train service between Los Angeles and Seattle. The southbound Coast Starlight train stops at the San Jose Diridon station at 9:55 AM and departs at 10:07 AM. The northbound Coast Starlight train stops at the Diridon station at 8:11 PM and departs at 8:23 PM.

Existing Site Access and Parking

Existing vehicular access to the project site is from a driveway on N. San Pedro Street. Pedestrian access to the site is from sidewalks along N. San Pedro Street and N. Almaden Avenue.

4.16.1.3 *Applicable Plans, Policies, and Regulations*

Envision San Jose 2040 General Plan

The following 2040 General Plan policies are specific to transportation and are applicable to the proposed project.

Envision San José 2040 Relevant Transportation Policies

Policy	Description
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand

Envision San José 2040 Relevant Transportation Policies

Policy	Description
	existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
Policy TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.

Downtown Strategy 2000

The following Downtown Strategies are specific to transportation and are applicable to the proposed project.

Downtown Strategy 2000 Urban Design Policies

Policies	Description
Transportation and Access Strategy F	Develop a renewed focus on pedestrian security, comfort, and amenity on every street in the Greater Downtown.
Transportation and Access Strategy G	Incorporate a pedestrian orientation in new development, including appropriate site planning, human-scale street frontages, ground floor uses, and integration with adjacent transit stops, to ensure walkability and integration with the existing downtown.
Transportation and Access Strategy H	Encourage bicycle access to downtown by providing signed routes, lanes, and bike racks. Encourage commercial developments to serve bicyclists with parking, showers, and lockers.

San José Bicycle Master Plan

The Bicycle Master Plan, also known as the San José Bike Plan 2020, defines the City's vision to make bicycling an integral part of daily life in San José. The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling in convenient, safe, and commonplace. The Bike Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

City Council Policy 5-3

As established in the City Council Policy 5-3 "Transportation Impact Policy" (2005), the City of San José uses the same LOS method as the CMP, although the City's standard is LOS D rather than LOS E. According to this policy and General Plan Policy TR-5.3, listed above, an intersection impact would be satisfactorily mitigated if the implementation measures would restore level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (i.e. pedestrian, bicycle, or transit).[33] The City's Transportation Impact Policy (also referred to as the Level of Service Policy) protects pedestrian and bicycle facilities from undue encroachment by automobiles.

The project site is located within the Downtown Core, which is exempt from this Policy.

4.16.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	☐	3,5,20

[33] Examples of unacceptable impacts include reducing the width of a sidewalk or bicycle lane below the city standard or creating unsafe pedestrian operating conditions. Exceptions to the standard are made for small, infill projects, the Downtown Core, and for impacts to Protected Intersections within Special Strategy Areas, including Transit Oriented Development Corridors and Transit Station Areas.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
2. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	☐	3,5,20
3. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	3
4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐	20
5. Result in inadequate emergency access?	☐	☐	☐	☒	☐	1,3,20
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	☐	3,5,20

4.16.3 Traffic Impacts

The project includes construction of 201 residential units and 11,969 sf of retail/commercial on the project site. The project includes the construction of a four-level parking garage with 273 vehicle parking spaces to serve the residential uses on the site. The project would assign the parking spaces at a rate of one space per bedroom (i.e. a two-bedroom apartment would be assigned two parking spaces). The City's Downtown Zoning Regulations require the project to provide one off-street parking space per residential unit. Off-street parking is not required for the retail/commercial component of the project. The project is, therefore, required to provide 201 parking spaces under the City's Zoning Regulations.

4.16.3.1 *Level of Service*

The proposed 201 residential units and 11,969 sf of retail/commercial uses proposed for the site is consistent with the intensity of development evaluated in the Downtown Strategy which included 10,000 residential dwelling units and 1.2 million sf of retail space. The certified Downtown Strategy FEIR concluded that local and regional traffic impacts of all the assumed Downtown development would have impacts on 36 intersections and 48 directional freeway segments.

As noted in the 2040 General Plan FEIR, development within the Downtown Core is exempt from the Level of Service performance criteria and exempt from traffic mitigation requirements. The proposed project is part of the planned growth in the Downtown area and would not result in any new impacts or impacts of greater severity than previously disclosed in the certified Downtown Strategy FEIR. **[Same as Approved Project (Significant Impact)]**

4.16.3.2 *Other Transportation Issues*

Bicycle and Pedestrian Facilities

The project includes features that encourage and/or enhance alternative modes of transportation. The project proposes to improve pedestrian facilities by installing a paseo along the southern side of the project site, connecting the N. San Pedro Street and N. Almaden Avenue sidewalks. Additionally, contingent on the establishment of reciprocal agreements with the adjacent property owners, the project proposes enhancement of existing courtyards and patio areas with amenities such as outdoor furniture and benches. The paseo would be approximately 11 feet wide, well-lit, and entrances to courtyards, patios and residential development would attract regular and frequent pedestrian activity to the paseo. The paseo would be well-integrated into the existing pedestrian circulation system and would not result in significant safety issues. Implementation of the project would enhance pedestrian walkability in the vicinity of the project and would support related General Plan and Downtown Strategy goals and policies. The project would not impact or conflict with existing or planned pedestrian facilities.

The project includes installation of 54 bicycle stalls in the east side of the parking garage for residents, guests, and retail/commercial customers. According to the San Jose Bike Plan 2020 Bikeway Network map, no additional bicycle facilities are planned in the study area. The project would not impact or conflict with existing or planned bicycle facilities.

With implementation of MM TRAN-1, described below, the project would not result in pedestrian or bicycle safety hazards. The proposed project would not conflict with adopted plans, policies, or programs related to alternative transportation including General Plan policies TR-1.1, TR-2.8, and CD-2.3. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Site Access and Circulation

Pedestrians and bicycles would access the project site via existing sidewalks along N. San Pedro Street and N. Almaden Avenue; access to the upper-level residential development would be provided

through two separate lobby areas with elevators. The lobbies would be accessed through the parking garage or from the proposed paseo.

Vehicular access to the site would be provided via a single ingress/egress driveway on N. Almaden Avenue. The driveway would lead into the proposed parking garage which would have assigned spaces for residents of the building. Parking spaces would be allocated to each living unit at a rate of one space per bedroom (i.e. a two-bedroom unit would be assigned two parking spaces). Motorists visiting the site for the retail/commercial components of the building would be required to find parking off-site.

Vehicle Queuing

A queuing analysis was completed for the project and indicated the eastbound left-turn movement at the N. Almaden Avenue and Santa Clara Street intersection currently does not have adequate queue storage capacity to serve the existing queue lengths during the peak hours. The addition of project traffic would increase the projected maximum queue lengths at the intersection by at most one vehicle during the PM peak hour.

The increased queue at the N. Almaden Avenue and Santa Clara Street intersection from project implementation would be minimal. Additionally, development within the Downtown Core is exempt from traffic mitigation requirements. The proposed project is part of the planned growth in the Downtown area and would not result in any new impacts or impacts of greater severity than previously disclosed in the certified Downtown Strategy FEIR. Additional details regarding vehicle queuing is provided in Appendix I.

Truck and Emergency Vehicle Access and Circulation

Garbage trucks and large delivery vehicles would perform their operations outside of the building at the curb, which is common for mixed-use development. A trash enclosure is proposed on the site near N. Almaden Avenue. Trash bins would be wheeled out to N. Almaden Avenue for garbage truck pickup on applicable days. Traffic operations on N. Almaden Avenue would only be interrupted temporarily while trucks maneuver into the area. The design of the project would be required to comply with the City's standards for emergency vehicle access (including providing adequate points of access, vertical clearance, and turning radius) and the project, therefore, would not result in inadequate emergency access.

Project Driveway

Operations

The project driveway would be 26 feet wide. According to the City of San Jose Residential Design Guidelines, standard driveways with two-way traffic should be at least 20 feet wide for residential developments. The width of the project driveway would be adequate to serve the project.

The entrance to the parking garage would be located approximately 50 feet from the face of the curb on N. Almaden Avenue. The City typically requires a minimum distance of 50 feet to provide

adequate stacking space for at least two inbound vehicles to avoid spillover into the street. The driveway length would be adequate to serve residents of the site based on City standards.

The project-generated trips that would occur at the parking garage driveway are 37 inbound trips and 69 outbound trips during the AM peak hour, and 67 inbound trips and 32 outbound trips during the PM peak hour. Vehicle queuing issues are not expected to occur at the project driveway based on the relatively low number of project trips at the driveway and the low volumes of traffic on N. Almaden Avenue.

Sight Distance

The project driveway would go over an existing pedestrian sidewalk on N. Almaden Avenue, in an area that encourages high pedestrian and bicycle activity. Adequate sight distance would be required to ensure exiting vehicles can see pedestrians on the sidewalk, as well as vehicles and bicyclists traveling on N. Almaden Avenue.

Impact TRAN-1 The project driveway would go over an existing pedestrian sidewalk on N. Almaden Avenue, in an area that encourages high pedestrian and bicycle activity. The project could result in safety hazards if design features are not incorporated into the driveway design that encourage safety. **(Significant Impact)**

Mitigation Measure: Consistent with strategies in the certified Downtown Strategy and policies in the 2040 General Plan, the project shall implement the following measure to reduce safety hazards at the project driveway to a less than significant level.

MM TRAN-1 The project driveway serving the site shall be free and clear of obstructions. Sight distance shall be provided in accordance with Caltrans standards, which is 200 feet for the project driveway on N. Almaden Avenue (based on a vehicle speed of 30 mph). Drivers must be able to see 200 feet down N. Almaden Avenue in order to stop and avoid a collision.

Sight distance triangles shall be measured approximately 10 feet back from the travelled way to reduce the likelihood of a collision at the driveway, and to provide drivers with the ability to locate sufficient gaps in traffic and exit the driveway.

Appropriate visible and/or audible warning signals shall be provided at the project driveway to alert pedestrians and bicyclists of vehicles exiting the garage. These signals shall be shown on approved building plans.

[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]

Based on the discussions above, the proposed project would not result in new or more substantial hazards from a design feature, incompatible land use, or inadequate emergency vehicle access than addressed in the General Plan FEIR and Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Air Traffic Patterns

Refer to *Section 4.8 Hazards and Hazardous Materials* for a discussion of FAA regulations applicable to new development on the project site. Compliance with these regulations and associated City General Plan policy would ensure that future development on the project site would not result in any changes to air traffic patterns. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.4 Conclusion

Implementation of the proposed project would not result in any new or more significant transportation impacts than previously disclosed in the 2040 General Plan FEIR or Downtown Strategy FEIR. Additionally, because the project site is located in the Downtown Core, traffic mitigation is not required. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 *Water Service and Supply*

Water service to the project site is provided by the San José Water Company. The project site is served by existing water lines in the area. Water demand at the site under existing conditions is from the retail/commercial building.

4.17.1.2 *Wastewater/Sanitary Sewer System*

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (Wastewater Facility), formerly known as the San José/Santa Clara Water Pollution Control Plant (WPCP), in Alviso. The Wastewater Facility has a capacity to treat 167 million gallons per day (mgd) of sewage during dry weather flow.[34] In 2012, the Facility's average dry weather effluent flow was 85.3 mgd.[35] Fresh water from the Wastewater Facility after treatment is discharged into the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 mgd of dry weather sewage flow. The City's share of the Wastewater Facility's treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.[36]

Sanitary sewer lines in the project area are inspected and maintained by the City of San José Department of Transportation, and rehabilitated and replaced by the Department of Public Works. Existing sewer lines that serve the project area include a 12-inch sewer line in Carlysle Street, an 8-inch sewer line in N. Almaden Avenue, and a 10-inch sewer line in N. San Pedro Street.[37] Sewage generated from the site under existing conditions is from the retail/commercial building.

4.17.1.3 *Storm Drainage*

Storm drain lines serving the project area include 36-inch diameter storm drains in N. Almaden Avenue and Carlysle Street, and a 24-inch storm drain in W. Santa Clara Street.[38] As discussed in *Section 4.9 Hydrology and Water Quality,* 52,622 sf of the project site is impervious. Small patches of dirt in the parking lot, where trees are located, make up approximately 200 sf of total pervious surfaces on the site.

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[34] City of San José. *San José/Santa Clara Regional Wastewater Facility.* May 4, 2010. Available at: http://www.sanjoseca.gov/index.aspx?NID=1663

[35] City of San José. *Clean Bay Strategy Reports*. February 2013. Available at: http://www.sanjoseca.gov/ArchiveCenter/ViewFile/Item/1629

[36] City of San José. *Envision San José 2040 General Plan Integrated Final Program EIR.* November 2011.

[37] City of San Jose Department of Public Works. Stormwater, water, and sanitary sewer maps. Available at: https://cpms.sanjoseca.gov/emap/. Accessed February 11, 2015.

[38] City of San Jose Department of Public Works. Stormwater, water, and sanitary sewer maps. Available at: https://cpms.sanjoseca.gov/emap/. Accessed February 7, 2015.

4.17.1.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2026.[39] Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

The City of San José has an existing contract with Newby Island Sanitary Landfill (NISL) through December 31, 2020 with the option to extend the contract as long as the landfill is open. The City has an annual disposal allocation for 395,000 tons per year. As of March 2014, NISL had approximately 20.1 million cubic yards of capacity remaining.[40]

GreenTeam of San José provides all recycling and garbage collection service to all apartment and condominium complexes in San José. GreenWaste Recovery provides yard trimmings and street sweeping services to all households in the City. Republic Services collects most standard garbage, recycling, and organics from businesses in the City.

4.17.1.5 *Applicable Plans, Policies, and Regulations*

Assembly Bill 939

Assembly Bill 939 (AB 939) established the CIWMB (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupant(s).

[39] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* May 2011.

[40] McGourty, Scott. Republic Services, Inc. Environmental Manager at NISL. Contacted May 19, 2014 during preparation of the *Post and San Pedro Tower Project Initial Study/Addendum to the Envision San Jose Downtown Strategy Plan and Downtown Strategy Plan* (September 2014).

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to utilities and service systems and are applicable to the proposed project.

Envision San José 2040 Relevant Utilities and Service System Policies

Policy	Description
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

San José Zero Waste Strategic Plan/Green Vision

The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability, and an enhanced quality of life for San José residents and businesses.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

4.17.2 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	☐	1,2,3,5
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1,2,3,5
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1,2,3,5
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐	1,2,3,5
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐	1,2,3,5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐	1,2,3,5
7. Comply with federal, state and local statutes and regulations related to solid waste?	☐	☐	☐	☒	☐	1,2,3,5

4.17.3 Utilities and Service Systems Impacts

4.17.3.1 *Water Service and Supply*

The Downtown Strategy FEIR found that implementation of the Downtown Strategy could result in the need for new or expanded water entitlements. The more recently prepared 2040 General Plan FEIR, found that under buildout conditions, water demand in the City of San Jose could exceed water supply during dry and multiple dry years after 2025. The certified 2040 General Plan FEIR concluded that with the implementation of existing regulations and 2040 General Plan policies, water demand would not exceed water supply.

The project proposes to develop 201 residential units and 11,969 sf of retail/commercial uses, which is consistent with planned growth in the 2040 General Plan and the Downtown Strategy. The project would comply with CalGreen and the City's Private Sector Green Building Policy. Per the City's Private Sector Green Building Policy, the proposed project is required to achieve LEED Certification by incorporating a variety of design features including water conservation measures such as planting drought tolerant landscaping.

As described in Section 4.13 *Population and Housing,* the project would serve approximately 623 residents. It is estimated that the project would have a water demand of approximately 73,294 gallons per day (gpd).[41] While the project would require a connection to the existing water mains in the area, the project would not require new or expanded water facilities.

Based on the above discussion, there is adequate water supply to serve the project, and the project would not result in any new or more significant impacts on the City's water service or supply systems than discussed in the Downtown Strategy FEIR and the 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[41] Project water demand is based on the estimated sewage generation of 63,200 gpd. Sewage demand is typically 85 percent of a project's water demand. The project's water use is based on the proposed number of residences. Water use by the proposed retail/commercial uses are assumed to be negligible.

4.17.3.2 *Wastewater/Sanitary Sewer System*

As described in Section 4.13 *Population and Housing,* the project would serve approximately 623 residents. It is estimated that the project would generate approximately 62,300 gpd of sewage.[42]

The Downtown Strategy FEIR found that implementation of the Downtown Strategy Plan could result in wastewater generation that would exceed 120 mgd, which was the Wastewater Facility capacity when the Downtown Strategy Plan was prepared. The capacity of the Watewater Facility has since increased to 167 mgd. Given the City's existing, remaining treatment capacity at the Wastewater Facility (38.8 mgd), there is sufficient capacity to accommodate project wastewater flows. Moreover, the 2040 General Plan FEIR concludes that sewage generated from buildout of the General Plan (including the Downtown Area) would not exceed the City's allocated capacity at the Wastewater Facility.

The project would require a connection to the existing sewer lines in N. Almaden Avenue and N. San Pedro Street. Per City requirements, a sanitary sewer capacity analysis would be completed to determine whether there is sufficient capacity in existing sanitary sewer facilities to accommodate projected flows from the project.

Based on the above discussion, there is adequate capacity at the Wastewater Facility to serve the project. With completion of a sanitary sewer capacity analysis, the proposed project would not result in any new or more significant impacts to the sanitary sewer system than discussed in the 2040 General Plan FEIR or the Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.3.3 *Storm Drainage*

The Downtown Strategy FEIR concluded that with the proposed changes in land use, buildout of the Downtown Strategy would result in an overall net decrease in impermeable surfaces. The 2040 General Plan FEIR found that although new development could increase impervious surfaces, planned improvements to the City storm drainage system would avoid significant impacts to the service system.

As discussed above, approximately 52,622 sf of the project site is impervious. Small patches of dirt where trees are located make up approximately 200 sf of total pervious surfaces on the site. Implementation of the project would increase pervious surfaces on the site by 2,250 sf for a total of 50,172 sf of impervious surfaces and 2,450 sf of pervious surfaces.

[42]Based on 100 gallons per person per day. Sewage rate is based on estimates used for the recently approved multi-family residential tower at Post and San Pedro Street. This analysis, however, assumes 3.1 persons per residential unit, whereas the analysis for Post and San Pedro assumed 2.4 persons per unit based on project-specific information. Consistent with analyses completed for the Post and San Pedro Street high density residential project (which included up to 10,000 sf of commercial space), wastewater from the retail/commercial component proposed by the project is assumed to be minimal. [City of San Jose. *Post and San Pedro Tower Project Initial Study/Addendum to the Envision San Jose Downtown Strategy Plan and Downtown Strategy Plan. September 2014]*.

Since the project would not increase the amount of impervious surfaces on-site, the existing storm drain system would continue to adequately accommodate runoff from the site. In addition, the project would be required to comply with the NPDES Municipal Regional Permit and all applicable plans, policies, and regulations (including RWQCB permits) for the treatment of stormwater, detailed in *Section 4.9 Hydrology and Water Quality*.

Based on the above discussion, the proposed project would not result in any new or more significant impacts to the City's storm drainage system than discussed in the Downtown Strategy FEIR or the 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.3.4 *Solid Waste*

The Downtown Strategy FEIR concluded there is sufficient capacity at local landfills to serve development resulting from the Downtown Strategy, assuming new development participates in construction and demolition debris recycling (where applicable) and includes recycling services.

The 2040 General Plan FEIR concluded the increase in waste generated from buildout of the General Plan would not exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be minimized with ongoing implementation of the City's Zero Waste Strategic Plan. This Plan, in combination with existing regulations and programs, would ensure that buildout of the General Plan (which includes the Downtown area) would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The project would intensify the uses on the site and increase the amount of solid waste generation compared to existing conditions; however, the project is consistent with the development assumed in the Downtown Strategy and General Plan. Based on the City's existing recycling and yard waste collection services, multi-family residential units divert about 75 percent of their waste stream from being landfilled; commercial uses in the City divert about 70 percent of their waste stream from being landfilled. It is estimated that the proposed project would generate approximately 9,863 pounds of solid waste per week.[43] Given NISL's existing, remaining capacity (20.1 million cubic yards), the City's contract with NISL, the existing amount of waste the City disposes at the landfill, and the amount of waste the project is estimated to generate, there is sufficient capacity within the City's contract with NISL to serve the proposed project.

Based on the above discussion, the proposed project would not result in any new or more significant impacts on solid waste disposal capacity than discussed in the Downtown Strategy FEIR and the 2040 General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[43] Consistent with the waste generation rate used for the Post and San Pedro Street residential project, the project's solid waste generation is based on the multi-family solid waste generation rate of 29.9 pounds per unit per week and the commercial solid waste generation rate of 0.322 pounds per square foot per week. A portion of the solid waste generated is diverted from landfills through recycling and composting.

4.17.4 Conclusion

The proposed project is consistent with planned growth under the Downtown Strategy and 2040 General Plan and, therefore, would not result in any new or more significant impacts than identified in the Downtown Strategy FEIR and the 2040 General Plan FEIR. The project would not require new utility lines or facilities and would not exceed the capacity of existing utility and service systems. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐	1-20
2. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	☐	1-20
3. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒	☐	1-20
4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐	1-20

4.18.1 Project Impacts

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified standard permit conditions and mitigation measures. As discussed in *Section 4.4 Biological Resources,* the project would not impact sensitive habitat or species. While there are historic and potentially historic structures in the immediate

project vicinity, and a potential for buried archaeological and paleontological resources on-site, implementation of the identified mitigation measures in *Section 4.5 Cultural Resources*, would avoid or reduce impacts to cultural resources to a less than significant level. The project would not result in new or more significant impacts to the environment than identified in the certified Downtown Strategy FEIR and 2040 General Plan FEIR.

4.18.2 Cumulative Impacts

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The project was evaluated as part of planned development proposed in the Downtown Strategy Plan and 2040 General Plan. When combined with other projects included in these two land use plans, the proposed project would contribute incrementally to significant and unavoidable impacts related to air quality.

CEQA did not require preparation of a GHG Analysis at the time the Downtown Strategy was prepared. However, consistent with subsequent CEQA requirements, GHG emissions have been analyzed at a project-level as part of this Addendum. The proposed project would have GHG emissions below the established BAAQMD operational thresholds, and would have a less than significant impact to GHG emissions.

Cumulative effects from buildout of the Downtown Strategy Plan and 2040 General Plan were already addressed in the respective FIERs, and the project would not result in any new or more significant environmental impacts than evaluated in the FEIRs. Per Section 15152(f) of the CEQA Guidelines, the contribution of the project to the cumulative effects from buildout of the Downtown Strategy Plan and 2040 General Plan are not considered significant.

4.18.3 Short-term Environmental Goals vs. Long-term Environmental Goals

The project site is currently developed with a retail/commercial building and surface parking lot. The project proposes to redevelop the site with residential and commercial uses, consistent with the long-term goals for the site outlined in the 2040 General Plan, and the intent for the San Pedro Square area as described in the Downtown Strategy Plan. Construction of the project would result in the temporary disturbance of developed land as well as an irreversible and irretrievable commitment of resources and energy during construction.

Construction of the proposed project would not result in the conversion of a greenfield site to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project proposes to

develop a currently underutilized, infill location in Downtown San José. It is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term goals for this Downtown site, including the placement of high-density residential development near transit and other community amenities. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the City's Private Sector Green Building Policy, Municipal Code including the Green Building Ordinance, and General Plan policies. As such, the project shall incorporate a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections to reduce energy use, conserve water, and achieve a minimum of LEED Certification.

With implementation of the mitigation measures included in the project and compliance with City General Plan policies, the proposed project would not achieve short-term environmental goals to the disadvantage of long-term environmental goals.

4.18.4 Direct or Indirect Adverse Effects on Human Beings

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air pollutants, geological hazards, hazardous materials, and noise and vibration. As described throughout this Initial Study/Addendum, implementation of identified standard measures and mitigation measures would reduce impacts to human beings to a less than significant level. The project would not result in new or more significant impacts to human beings than identified in the certified Downtown Strategy FEIR and 2040 General Plan FEIR.

Checklist Sources

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